



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

CIVIL ACTION NO.

89-3652

CONSENT DECREE

ACTON CORPORATION, on behalf of  
VIKOA;  
AIR PRODUCTS AND CHEMICALS, INC.;  
ALCOA;  
ALLIED-SIGNAL, INC. as successor  
to ALLIED CHEMICAL CORPORATION;  
AMERICAN CYANAMID COMPANY, on its  
own behalf and on behalf of  
LEDERLE LABORATORIES, a division of  
AMERICAN CYANAMID CO., and SHULTON,  
INC., a subsidiary of AMERICAN  
CYANAMID CO.;  
AMERICAN FLANGE & MANUFACTURING CO.,  
INC.;  
AMERICAN INKS AND COATINGS  
CORPORATION;  
AMERICAN NATIONAL CAN COMPANY, on  
behalf of AMERICAN CAN COMPANY;  
AMERICAN STANDARD INC.;  
BASF CORPORATION, on behalf of the  
entity formerly known as BASF  
WYANDOTTE CORPORATION;  
BEL-RAY COMPANY, INC.;  
BENJAMIN MOORE & CO.;  
BER MAR MANUFACTURING;  
BORDEN, INC., on behalf of BORDEN  
CHEMICAL and FABRIC LEATHER CO.;  
BOWEN ENGINEERING, INC., on behalf of  
STORK BOWEN ENGINEERING, INC.;  
BROCK FARMS, INC.;  
BROWNING-FERRIS INDUSTRIES OF SOUTH  
JERSEY, INC., on its own behalf and  
as successor to CHESTER SEEMS &  
SONS, INC., and PRINCETON DISPOSAL  
SERVICE; BROWNING-FERRIS INDUSTRIES  
OF ELIZABETH, NJ, INC.; NEWCO WASTE  
SYSTEMS OF NJ, INC.; and CECOS  
INTERNATIONAL, INC.;  
CAPITOL RECORDS, INC., on behalf of  
CAPITOL MAGNETICS PRODUCTS;  
CARTER WALLACE, INC.;  
CELLU-CRAFT, INC.;  
CERRO COMMUNICATION PRODUCTS, INC.,  
on its own behalf and on behalf of  
CERRO WIRE & CABLE CO., INC.;  
CHARMS COMPANY;

**CHEMCOAT, INCORPORATED;**  
**CHEMICAL DYNAMICS CORP.;**  
**CHEMICAL WASTE MANAGEMENT, on behalf**  
**of RECYCLING INDUSTRIES, INC.;**  
**CIBA-GEIGY CORPORATION, on its**  
**own behalf and on behalf of TOMS**  
**RIVER CHEMICAL CORP.;**  
**THE COCA-COLA COMPANY;**  
**COLGATE-PALMOLIVE COMPANY, on behalf**  
**of KIL-BEE CHEMICAL COMPANY;**  
**COLONIAL FOODS, INC.;**  
**COMPOUNDERS, INC.;**  
**CONESTOGA FUELS, INC.;**  
**CONGOLEUM CORPORATION, on behalf of**  
**CONGOLEUM;**  
**CUSTOM CHEMICALS CORPORATION, on**  
**behalf of CUSTOM CHEMICALS CO.,**  
**INC.;**  
**DECORATIVE INDUSTRIES, INC.;**  
**DURACELL, INC., on behalf of MALLORY**  
**BATTERY COMPANY;**  
**ECKER CONTRACTING & ROOFING CO., INC.;**  
**ENGELHARD CORPORATION;**  
**ENGLISHTOWN AUCTION SALES, INC.;**  
**FELLOWES MANUFACTURING COMPANY, on**  
**behalf of BANKERS BOX COMPANY;**  
**FIRST FIDELITY BANK, N.A., NEW JERSEY,**  
**as successor to NONMOUTH COUNTY**  
**NATIONAL BANK AND COLONIAL FIRST**  
**NATIONAL BANK;**  
**FREEHOLD RACING ASSOCIATION, on behalf**  
**of FREEHOLD RACEWAY;**  
**GENERAL FOODS CORPORATION, on its own**  
**behalf and on behalf of MAXWELL**  
**HOUSE DIVISION;**  
**GENERAL MOTORS CORPORATION;**  
**GEORGIA-PACIFIC CORPORATION, on behalf**  
**of XCEL;**  
**THE GILLETTE COMPANY;**  
**GTE PRODUCTS CORPORATION, on behalf of**  
**GTE SYLVANIA;**  
**HECHT BROTHERS, INC.;**  
**HEXCEL CORPORATION, on behalf of**  
**HEXCEL FINE ORGANICS;**  
**ICI AMERICAS INC., on behalf of**  
**CONVERTERS INK COMPANY;**  
**INLAND STEEL COMPANY, on behalf of**  
**INLAND STEEL CONTAINER;**  
**INTERNATIONAL FLAVORS AND FRAGRANCES,**  
**INC.;**  
**INTRA CITY WASTE MATERIALS CO., INC.;**  
**J. JOSEPHSON, INC.;**  
**J. LANDAU & CO., INC.;**  
**J. VINCH & SONS, INC.;**  
**J.M. HUBER CORPORATION PRINTING INK**  
**DIVISION;**

J.T. BAKER, INC., on behalf of J.T.  
BAKER CHEMICAL COMPANY;  
JAMESWAY CORPORATION, on behalf of  
JAMESWAY;  
JOHN L. ARMITAGE & COMPANY;  
JOHNSON & JOHNSON, on behalf of  
J & J WAREHOUSE, PERMACEL, AND  
FRANKLIN DIST.;  
JONES CHEMICALS, INC., on behalf of  
JONES CHEMICAL CO.;  
K CHEMICAL CORPORATION;  
KALAMA CHEMICAL, INC., on behalf of  
MONROE CHEMICAL, INC.;  
KASCO CONSTRUCTION CO., INC.;  
KIRKER CHEMICAL COMPANY;  
L.E. CARPENTER & COMPANY/DAY  
INTERNATIONAL CORPORATION, on behalf  
of L.E. CARPENTER & COMPANY;  
M & T CHEMICALS, INC.;  
MANOR CARE, INC., on behalf of  
PORTFOLIO ONE, INC., successor to  
ALMO ANTI-POLLUTION CORP.;  
WILLIAM J. MEHR;  
MERCK & CO, INC.;  
MID-AMERICA ENGINEERS, INC.;  
MILLHURST MILLS, INC.;  
MILLIPORE CORPORATION, on behalf of  
WORTHINGTON BIOCHEMICAL;  
MINNESOTA MINING & MANUFACTURING  
COMPANY (3M);  
MOBAY CORPORATION, on behalf of  
HARMON COLORS CORPORATION;  
MONSANTO COMPANY;  
MORTON THIOKOL, INC., on behalf of  
BEE COATED FILM;  
NATIONAL WASTE DISPOSAL, INC.;  
NEPERA, INC., on behalf of NEPERA  
CHEMICAL CO.;  
NESTLE FOODS CORPORATION;  
NEW ENGLAND LAMINATES CO., INC.;  
NEW JERSEY NATIONAL GUARD (properly  
known as the NJ DEPARTMENT OF  
MILITARY AND VETERANS AFFAIRS);  
NOVICK CHEMICAL COMPANY, INC.;  
O-I BROCKWAY GLASS, on behalf of  
BROCKWAY, INC.;  
OCCIDENTAL CHEMICAL CORPORATION, as  
successor to DIAMOND SHAMROCK  
CHEMICALS COMPANY;  
OWENS-ILLINOIS GENERAL, INC., on  
behalf of OWENS-ILLINOIS, INC.;  
OXY, USA, INC., on behalf of CITIES  
SERVICE OIL COMPANY;  
PAQUET ONEIDA, INC., on behalf of  
ONEIDA PACKAGING PRODUCTS;

PENNSYLVANIA NATIONAL INSURANCE  
COMPANIES, on behalf of LIGHTMAN  
DRUM COMPANY, INC.;  
PENNWALT CORPORATION, on behalf of  
PENWALT CORPORATION and PENNWALT  
S.S. WHITE;  
PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY;  
RELIANCE UNIVERSAL, INC.;  
REVLON, INC.;  
REYNOLDS METALS COMPANY;  
SHEEN MANUFACTURING COMPANY;  
RIDGE PRINTING CO., INC.;  
SEQUA CORPORATION, on behalf of  
ARROW GROUP IND. and CHROMALLOY  
CORPORATION;  
THE SHERWIN-WILLIAMS COMPANY;  
SILVER ENTERPRISES, INC.;  
SIMON WRECKING CO., INC.;  
SMITHKLINE BECKMAN CORPORATION, on  
behalf of SMITHKLINE BECKMAN;  
THE SOUTHLAND CORPORATION d/b/a  
SOUTHLAND CHEMICAL, on behalf of  
SOUTHLAND CHEMICAL;  
SQUIBB CORPORATION, on behalf of  
E.R. SQUIBB & SONS, INC.;  
STAR EXPANSION COMPANY;  
SYNTEX BEAUTY CARE, INC.;  
TECHNICAL COATINGS CO.;  
TENNECO POLYMERS, INC., on behalf of  
TENNECO CHEMICALS, INC.;  
TEXTRON, INC., on behalf of TEXTRON  
SPENCER KELLOGG;  
TRANSCO PRODUCTS CORPORATION;  
TUNGSTEN PRODUCTS CORPORATION;  
U.S. HOME CORPORATION;  
UNIROYAL CHEMICAL COMPANY, INC.,  
on behalf of UNIROYAL CHEMICAL;  
UNITED STATES PIPE AND FOUNDRY  
COMPANY;  
VAN DORN COMPANY, on behalf of  
MILTON CAN COMPANY;  
WASTE DISPOSAL, INC.;  
WESTINGHOUSE ELECTRIC CORPORATION, on  
behalf of WESTINGHOUSE ELECTRIC;

Defendants.

## TABLE OF CONTENTS

	<u>Page</u>
I. Background.....	1
II. Jurisdiction.....	4
III. Parties Bound.....	5
IV. Effect of Settlement.....	7
V. Definitions.....	8
VI. General Provisions.....	12
VII. Assurance of Ability to Complete Work.....	17
VIII. Parties' Designated Representatives.....	18
IX. Work to be Performed.....	21
X. Site Access, Sampling, Document Availability.....	29
XI. Quality Assurance/Quality Control.....	32
XII. Reporting Requirements.....	33
XIII. Additional Work.....	36
XIV. Endangerment and Future Response.....	39
XV. Certification of Completion of the Work.....	40
XVI. U.S. EPA Periodic Review to Assure Protection of Human Health and the Environment.....	42
XVII. Plans, Reports and Other Items Requiring Agency Approval.....	43
XVIII. Insurance and Indemnification.....	44
XIX. Reimbursement of Response Costs.....	47
XX. Force Majeure.....	50
XXI. Dispute Resolution.....	53
XXII. Stipulated Penalties.....	56

XXIII.	Contribution Protection.....	61
XXIV.	Covenant Not to Sue.....	62
XXV.	Covenants by Settling Defendants.....	66
XXVI.	Retention and Availability of Information.....	67
XXVII.	Notices.....	69
XXVIII.	Consistency with National Contingency Plan.....	71
XXIX.	Response Authority.....	71
XXX.	Modification.....	72
XXXI.	Public Participation.....	72
XXXII.	Community Relations.....	73
XXXIII.	Effective and Termination Dates.....	73
XXXIV.	Admissibility of Data.....	74
XXXV.	Waiver of Any Claim-Splitting Defense.....	74
XXXVI.	Retention of Jurisdiction.....	75

## I.

BACKGROUND

WHEREAS, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), filed concurrently with this Consent Decree a Complaint in this matter against defendant signatories to this Consent Decree ("Settling Defendants") pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601 et seq., for the recovery of past response costs incurred by the United States and for the conduct of Remedial Action in response to alleged releases and threatened releases of hazardous substances into the environment at and from the Lone Pine Landfill Superfund Site ("the Site") located in Freshhold Township, Monmouth County, in the State of New Jersey,

WHEREAS, the alleged releases of hazardous substances into the environment at and from the Site may have caused property damage;

WHEREAS, pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, U.S. EPA placed the Lone Pine Landfill Site on the National Priorities List, which is set forth at 40 C.F.R. Part 300, Appendix B;

WHEREAS, in response to the alleged releases or threatened releases of one or more hazardous substances into the environment at or from the Site, the U.S. EPA in July, 1982, commenced a Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to 40 C.F.R. 300.68;

WHEREAS, the U.S. EPA completed a Remedial Investigation ("RI") and completed a Feasibility Study ("FS") Report in May, 1983, and completed a supplementary FS Report in June, 1984;

WHEREAS, the U.S. EPA informed the public of the completion of the RI/FS and of the proposed plan for remedial action and provided opportunity for public comment;

WHEREAS, certain persons including some of the Settling Defendants provided comments on U.S. EPA's proposed plan for remedial action, and U.S. EPA provided a summary of responses to the comments;

WHEREAS, the decision by the U.S. EPA on the remedial action plan selected for the Site is embodied in a Record of Decision ("ROD"), issued by the Assistant Administrator of the Office of Solid Waste and Emergency Response on September 28, 1984, to which the State has given its concurrence, and which includes a discussion of U.S. EPA's reasons for the remedial plan and a response to each of the significant comments submitted during the public comment period, attached hereto as Appendix I;

WHEREAS, the U.S. EPA has conducted the Remedial Design ("RD") of the Remedial Action Plan for the Site, and the RD constitutes the final plans and specifications for the Remedial Action, which are attached hereto as Appendix II;

WHEREAS, in accordance with Section 121(f)(1)(F) of CERCLA, 42 U.S.C. §9621(f)(1)(F), the U.S. EPA notified the State of New Jersey of negotiations with potentially responsible parties ("PRPs") regarding the implementation of the Remedial Action for the Site, and U.S. EPA has provided the State with an opportunity



to participate in such negotiations and be a party to this settlement;

WHEREAS, pursuant to Sections 121 and 122 of CERCLA, 42 U.S.C. §9621 and §9622, the United States and the Settling Defendants each have stipulated and agreed to the making of this Consent Decree prior to the taking of any testimony, and in full settlement of the claims raised in the Complaint;

WHEREAS, the U.S. EPA and the Settling Defendants ("the Parties") intend to attain a degree of cleanup of hazardous substances, pollutants and contaminants and control further releases which at a minimum assures protection of human health and the environment with respect to the source of contamination at the Site addressed by the Work required under this Consent Decree;

WHEREAS, the Parties believe the Remedial Action Plan adopted by U.S. EPA in the ROD is consistent with the National Contingency Plan ("NCP"), 40 C.F.R. Part 300;

WHEREAS, notwithstanding any other provision of this Consent Decree, including Section XIII, Additional Work, the Settling Defendants agree not to contest the appropriateness of the Remedial Action Plan adopted by U.S. EPA in the ROD;

WHEREAS, the Primary Settling Defendants, and as applicable other Settling Defendants, agree to implement the final Remedial Action Plan adopted by U.S. EPA in the ROD, as set forth in the Remedial Design in Appendix II and made part of this Consent Decree, and U.S. EPA has determined that the work required under this Consent Decree will be done properly by such Settling

Defendants, and that the Primary Settling Defendants are qualified to implement the Remedial Action Plan contained in the ROD;

WHEREAS, the Parties agree that this settlement is practicable and in the public interest and is fair, reasonable, and furthers the goals of CERCLA;

WHEREAS, the Parties agree that it is in the interests of the Parties for this case to be resolved at this time without prolonged and costly litigation between the Parties and without the admission of any issue of fact or law;

WHEREAS, the Court, by entering this Consent Decree, finds that the entry of this Consent Decree is in the public interest; and

WHEREAS, the Parties have agreed to the entry of this Consent Decree;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

## II.

### JURISDICTION

The Court has jurisdiction over the subject matter of this action and the signatories to this Consent Decree pursuant to CERCLA, 42 U.S.C. §9601 et seq. and 28 U.S.C. §1331 and §1345. Solely for purposes of this Consent Decree, Settling Defendants waive all objections and defenses that they may have to the jurisdiction of this Court or to venue in this District. Settling Defendants by their signatures on this Consent Decree designate the agent(s) identified in Paragraph B of Section XXVII

of this Consent Decree to accept service of process of the Complaint filed in this action and service of all other filings relating to the entry of this Consent Decree and expressly waive all objections to service of process. Settling Defendants agree to submit themselves to this Court's jurisdiction solely for the purpose of entering and enforcing this Consent Decree.

### III.

#### PARTIES BOUND

A. This Consent Decree applies to and is binding upon the undersigned Parties and their officers and employees, in their capacities as representatives of Settling Defendants, their trustees for purposes of this Consent Decree, and their successors and assigns. The undersigned representative of each party to this Consent Decree certifies that he or she is fully authorized by the party or parties whom she or he represents to enter into the terms and conditions of the Consent Decree and to execute and legally bind that party to it.

B. No change in ownership or corporate or partnership status shall in any way alter the Settling Defendants' responsibilities under this Consent Decree. Each Settling Defendant shall be responsible and shall remain responsible for carrying out all activities required of that particular Settling Defendant under Paragraph B of Section VI of this Consent Decree.

C. In the event of the inability to pay or insolvency of any one or more of the Settling Defendants, or in the event that for any other reason one or more of the Settling Defendants do

not participate in the implementation of this Consent Decree, the remaining Primary Settling Defendants and Secondary Settling Defendants agree and commit to complete the Work and all applicable requirements of this Consent Decree.

D. The Primary Settling Defendants, and as applicable, the other Settling Defendants agree to instruct their trustees, contractors and agents involved in the performance of this Consent Decree to cooperate in carrying out the obligations of the Settling Defendants under this Consent Decree. Each Settling Defendant agrees that its trustees, contractors and agents involved in the performance of this Consent Decree shall take all necessary steps to accomplish the terms of this Consent Decree. However, nothing in this Paragraph shall impair the rights of Primary Settling Defendants, and as applicable, the other Settling Defendants, to utilize Section XXI, Dispute Resolution.

E. Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall provide a copy of this Consent Decree to any Contractor retained to perform the work required by this Consent Decree, and to any Subcontractor performing subcontracts in excess of \$250,000, and shall condition all contracts and subcontracts entered for the performance of such work upon compliance with the terms and conditions of this Consent Decree and all applicable laws and regulations. The failure of a Contractor or a Subcontractor to perform the work required by this Consent Decree shall not relieve Settling Defendants of their obligations to comply with all terms and conditions of this Consent Decree.

## IV.

EFFECT OF SETTLEMENT

This Consent Decree was negotiated at arms' length and executed by the Parties in good faith to avoid further expensive and protracted litigation and is a settlement of claims which were vigorously contested, denied and disputed as to validity, liability and amount. The Plaintiff and the Settling Defendants agree that neither this Consent Decree, nor any part hereof, nor the entry into, nor any performance under this Consent Decree by any of the Settling Defendants, shall constitute or be construed as a finding or admission or acknowledgment of the factual or legal allegations contained in this Consent Decree or in the Complaint, or of any liability, fault or wrongdoing, or evidence of such, or an admission of violation of any law, rule, regulation, or policy, by any Settling Defendant or by its officers, directors, employees, agents, successors or assigns, nor shall this Consent Decree nor any performance hereunder by any of the Settling Defendants create any rights on behalf of any other person not a party hereto. Each of the Settling Defendants expressly reserves any and all rights (including any right to contribution), defenses, claims, demands, and causes of action which each of them may have with respect to any matter, action, event, claim or proceeding relating in any way to the Lone Pine Landfill Site against any person other than the Plaintiff, except as expressly provided in this Consent Decree. Settling Defendants individually and collectively, do not admit, accept, concede, or acknowledge the determinations, allegations, findings

- 8 -

of fact, if any, and conclusions in this Consent Decree or in the Complaint filed in this action and specifically reserve the right to contest any such determinations, allegations, findings, except in any proceeding to enforce Settling Defendants' obligations pursuant to this Consent Decree, or except as otherwise provided in this Consent Decree.

V.

DEFINITIONS

Unless noted to the contrary, the terms of this Consent Decree shall have the same meaning as terms as defined in CERCLA. Whenever the following terms are used in this Consent Decree and the Exhibits and Appendices attached hereto, the following definitions shall apply:

A. "Architect" or "Engineer" or "Contractor" shall mean the company or companies retained by the Settling Defendants, or a Trustee on behalf of the Settling Defendants, to undertake and complete the Remedial Action Plan described in the ROD and the Remedial Design, attached hereto as Appendix I and Appendix II, respectively. Each architect, engineer, contractor and subcontractor shall be qualified to do those portions of the work for which it is retained.

B. "ATSDR" shall mean the Agency for Toxic Substances and Disease Registry.

C. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq.

D. "Day" shall mean calendar day, unless otherwise specified.

E. "Direct User Buyout Defendants" shall mean those Defendants listed in Appendix C to this Consent Decree.

F. "Facility" or "Site" shall mean that "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. §9601(9), which is located within the township limits of Freehold, Monmouth County, New Jersey, at Block 91, Lots 51, 52, 53, and 54, and Block 92, Lots 24, 25, 41, and 45 as shown on the map attached as Appendix III.

G. "Fund" shall mean the Hazardous Substance Superfund, created pursuant to Section 221 of CERCLA, 26 U.S.C. §9507.

H. "Future Liability" shall mean liability arising after U.S. EPA's Certification of Completion is issued pursuant to Section XV.

I. "Hazardous Substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).

J. "National Contingency Plan" or "NCP" shall be used as that term is used in Section 105 of CERCLA, 42 U.S.C. §9605.

K. "NJDEP" shall mean the New Jersey Department of Environmental Protection.

L. "Paragraph" shall mean a portion of this Consent Decree identified by a letter or by an arabic numeral.

M. "Past Costs" shall mean those costs related to the Site incurred by the United States or ATSDR prior to the date of lodging of this Consent Decree, except those costs incurred in connection with that "off-site" area which is the subject of a

separate remedial investigation and feasibility study, and for which a subsequent record of decision will be signed.

N. "Parties" shall mean the United States and the Settling Defendants.

O. "Plaintiff" shall mean the United States Environmental Protection Agency and the United States Department of Justice.

P. "Primary Settling Defendants" shall mean those Defendants listed in Appendix A to this Consent Decree.

Q. "Record of Decision" or "ROD" shall mean that document, and all attachments thereto, attached hereto as Appendix I, issued by U.S. EPA on September 28, 1984, in which the Remedial Action Plan was selected by the Assistant Administrator of the Office of Solid Waste and Emergency Response to address the release and threat of release of hazardous substances and contaminants at and from the Lone Pine Landfill Superfund Site.

R. "Remedial Action Plan" shall mean the recommended remedial alternative set forth in the ROD.

S. "Remedial Design" shall mean that document prepared for U.S. EPA and attached hereto as Appendix II, which contains the final plans and specifications for implementation of the Remedial Action Plan selected and described in the ROD and any modifications thereto, consistent with the ROD, that are mutually agreed upon by U.S. EPA and the Primary Settling Defendants.

T. "Response Costs" shall mean the costs of "response", as defined in 42 U.S.C. §9601(25) incurred by either the Plaintiff or the Settling Defendants.



U. "SCP Buyout Settling Defendants" shall mean those Defendants listed in Appendix D to this Consent Decree.

V. "Secondary Settling Defendants" shall mean those Defendants listed in Appendix B to this Consent Decree.

W. "Section" shall mean a portion of this Consent Decree identified by a roman numeral.

X. "Settling Defendants" shall mean those parties other than the United States of America who sign this Consent Decree, and shall include the Primary Settling Defendants, Secondary Settling Defendants, Direct User Buyout Settling Defendants and SCP Buyout Settling Defendants.

Y. "State" shall mean the State of New Jersey.

Z. "SWDA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §6901 et seq.

AA. "United States" shall mean the United States Environmental Protection Agency and the United States Department of Justice.

BB. "U.S. EPA" or "EPA" shall mean the United States Environmental Protection Agency.

CC. "U.S. DOJ" means the United States Department of Justice.

DD. "Waste material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. §9601(14); (2) any "pollutant" or "contaminant" under Section 101(33) of CERCLA, 42 U.S.C. §9601(33); or (3) any "hazardous waste" under Section 1004(5) of SWDA, 42 U.S.C. §6904(5).

EE. "Work" or "Remedial Action" shall mean all work and other activities required by this Consent Decree, including, but not limited to, the construction, implementation, monitoring and operation and maintenance of the Remedial Action Plan for the Lone Pine Landfill Site, in accordance with the Remedial Design, the ROD, and any modifications, schedules or plans required pursuant to this Consent Decree. "Work" or "Remedial Action" shall not include any remedial activities relating to that "off-site" area which is the subject of a separate remedial investigation and feasibility study and for which a subsequent record of decision will be signed.

## VI.

### GENERAL PROVISIONS

#### A. Objectives of the Parties:

The objective of the Parties in entering into this Consent Decree is to protect public health, welfare and the environment from any releases or threatened releases of waste materials at and from the Site, with respect to the source of contamination addressed by the Work required under this Consent Decree, by the implementation of the Work required by this Consent Decree by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants.

#### B. Commitment of Settling Defendants:

1. Primary Settling Defendants and Secondary Settling Defendants, shall be responsible, jointly and severally, to

finance the Remedial Action and to reimburse the United States for response costs as provided herein.

2. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall be responsible, jointly and severally, to perform the Remedial Action as provided herein.

3. Direct User Buyout Settling Defendants and SCP Buyout Settling Defendants shall be responsible to finance the Remedial Action and to reimburse the United States for response costs as provided herein in accordance with the settlement agreement among the Settling Defendants.

4. As used in this Consent Decree, the term "and as applicable, Secondary Settling Defendants" shall mean those Secondary Settling Defendants who elect to participate in the performance of the Remedial Action in accordance with the settlement agreement among the Settling Defendants.

5. Any Settling Defendant may participate in more than one category of Settling Defendants (i.e., Primary, Secondary, Direct User Buyout and SCP Buyout). However, participation in one category of Settling Defendants and the fulfillment of the obligations of that category under this Consent Decree shall satisfy the requirements of this Consent Decree and confer protections under this Consent Decree only as to that category for which that Settling Defendant has fulfilled its obligations.

C. The Remedial Action shall be completed in accordance with the standards and specifications, and within the time periods set forth in Section IX and the Remedial Design.

**D. Permits and Approvals:**

1. All activities undertaken by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, pursuant to this Consent Decree shall be undertaken in accordance with the requirements of Section 121(e)(1) of CERCLA, 42 U.S.C. §9621(e), the NCP, 40 C.F.R. Part 300, and any amendments thereto, and all applicable Federal, State and local laws and regulations, subject to the requirements of CERCLA.

2. The United States has determined that no Federal, State or local permits shall be required for any portion of the Remedial Action conducted entirely on-site, including without limitation, direct discharges from the on-site treatment plant to the Manasquan River. However, Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall comply with applicable substantive requirements for on-site Work, including without limitation, all Federal and State discharge requirements and limitations for the Manasquan River. Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall obtain for any off-site work arising out of the Work required by this Consent Decree all permits or approvals necessary under applicable Federal, State or local laws and shall submit timely applications and requests for any such permits and approvals.

3. This Consent Decree is not to be construed as, nor is it intended by the Parties to be, a permit issued pursuant to any Federal or State statute or regulation.

4. Notwithstanding approvals which may be granted by the United States, the State or other governmental entities, as between the Parties, the Primary Settling Defendants and Secondary Settling Defendants shall assume any and all liability to the extent caused by their acts or omissions or the acts or omissions of any of their contractors, subcontractors, or any other person acting on their behalf in the performance of the Work as defined in this Consent Decree, or any and all liability to the extent caused by their failure to perform properly or completely the requirements of this Consent Decree.

5. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall include in all contracts or subcontracts entered into for work required under this Consent Decree, provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with this Consent Decree and all applicable laws and regulations.

6. The United States has determined that the obligations and procedures authorized under this Consent Decree are consistent with the authority of the United States to establish remedial measures for the Site.

E. The Court finds and the Parties agree that the Remedial Action Plan adopted in the ROD, as set forth in Appendix I, is consistent with the National Contingency Plan.

**F. Compliance with Other Laws**

1. In performing their obligations under this Consent Decree, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall comply with all applicable Federal and State legal requirements, including those specified in the ROD.

2. The off-site transfer, treatment, storage, and disposal of Waste Materials removed from the Site by Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall be in compliance with Section 121(d)(3) of CERCLA, 42 U.S.C. §9621(d)(3); the NCP, and any amendments thereto; the applicable requirements relating to off-site management under the SWDA; N.J.A.C. 7:26-1.1 et seq.; the standards applicable to generators and transporters of hazardous waste at 40 C.F.R. Parts 262 and 263, and the applicable State regulations; and the Revised Procedures for Planning and Implementing Off-site Response Actions, EPA Office of Solid Waste and Emergency Response, November 13, 1987.

3. In the Site Management Plans for Remedial Action and Operation and Maintenance, referred to in Section IX of this Consent Decree, the Primary Settling Defendants, and as applicable, other Settling Defendants, shall indicate manifests are required and shall designate the facilities which are proposed for such off-site transfer, storage or disposal of hazardous wastes.

## VII.

ASSURANCE OF ABILITY TO COMPLETE WORK

A. Primary Settling Defendants shall demonstrate their ability to complete the Work and to pay all claims that arise in connection with performance of the Work by obtaining, and presenting to U.S. EPA for approval within ten (10) days of the entry of this Consent Decree, one of the following: (1) an agreement creating a trust fund (2) a performance bond, or (3) irrevocable letter of credit.

B. In lieu of any of the three items listed in Paragraph A of this Section, the Primary Settling Defendants may present to U.S. EPA and to each other, prior to the effective date of this Consent Decree, financial information sufficient to demonstrate that the Primary Settling Defendants have a combined net worth of not less than one hundred (100) million dollars. The Primary Settling Defendants may make such demonstration by utilizing their most recent audited financial statements, financial assurance information provided under SWDA or similar statute, or other existing information about the financial condition of the Defendants. U.S. EPA will make a determination of the adequacy of the financial assurance and will communicate that determination to the Primary Settling Defendants. A favorable determination by U.S. EPA shall render the assurance specified in Paragraph A of this Section unnecessary. After the initial submission, the Settling Defendants shall annually, on or before the anniversary of the entry of this Consent Decree, submit certification that the combined net worth of the Primary Settling

Defendants has not fallen below one hundred (100) million dollars. The Primary Settling Defendants may assert business confidentiality claims, and may, if warranted, receive confidentiality protection, covering part or all of the information provided pursuant to this Paragraph, in accordance with Paragraphs C and D of Section XXVI of this Consent Decree.

C. If at any time U.S. EPA determines that the financial assurance is inadequate, within twenty (20) days of receipt of written notice of such determination, Primary Settling Defendants shall obtain and present to U.S. EPA for approval one of the three financial assurance instruments specified in Paragraph A of this Section.

#### VIII.

##### PARTIES' DESIGNATED REPRESENTATIVES

A. 1. Within ten (10) days of the date on which this Consent Decree is lodged with the Court, U.S. EPA shall designate a Project Coordinator to monitor the progress of the Work and to coordinate communication between U.S. EPA and the Settling Defendants. The U.S. EPA may designate an alternate representative. U.S. EPA shall notify Primary Settling Defendants and Secondary Settling Defendants of the name, address, and telephone number of its Project Coordinator.

2. Within ten (10) days of the date on which this Consent Decree is lodged with the Court, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall designate a Project Coordinator who shall not be an



attorney engaged in the practice of law and who shall have the authority to supervise the implementation of the Work on behalf of Settling Defendants.

3. Within ten (10) days of the date on which this Consent Decree is lodged with the Court, Primary Settling Defendants and Secondary Settling Defendants shall notify U.S. EPA in writing of the name, address, and telephone number of their Project Coordinator designated pursuant to this Section.

B. The U.S. EPA Project Coordinator shall have the authority lawfully vested in the Project Coordinator by the National Contingency Plan, 40 C.F.R Part 300, or any similar provision in any amendments or revisions to the NCP.

C. The U.S. EPA Project Coordinator shall have the authority to require a suspension of the performance of the Work or any other activity at the Site that may present or contribute to an imminent and substantial endangerment to public health, welfare, or the environment or may cause or threaten to cause the uncontrolled or unauthorized release of Hazardous Substances from the Site. Any dispute between the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, and U.S. EPA over the propriety of the suspension of Work ordered by the U.S. EPA Project Coordinator may be resolved promptly through expedited dispute resolution by notice of a written statement of the issues in dispute to the Director of the Emergency and Remedial Response Division, U.S. EPA Region II, or his authorized representative. Within five days of such notice, the Parties shall confer. Should informal negotiations fail, then the issue

may be referred to this Court for resolution. If the U.S. EPA Project Coordinator suspends the Work or any other activity at the Site, U.S. EPA may extend the compliance schedule of this Consent Decree as appropriate for a period of time equal to the time of the suspension of Remedial Action or other activities plus reasonable additional time for resumption of activities. U.S. EPA shall notify Settling Defendants in writing of any extension of time, and such extension shall not be unreasonably withheld.

D. The Project Coordinators do not have the authority to modify in any way the terms of this Consent Decree. The absence of the U.S. EPA Project Coordinator from the Site shall not delay or stop any portion of the Remedial Action.

E. U.S. EPA and the Primary Settling Defendants and Secondary Settling Defendants shall have the right to change their designated representatives by notifying the other Parties in writing. Primary Settling Defendants and Secondary Settling Defendants shall notify U.S. EPA of any such change at least seven (7) days prior to the change.

F. The U.S. EPA Project Coordinator may assign other representatives, including, but not limited to, other United States employees, contractors and subcontractors, to serve as their representatives for oversight of performance of daily operations during implementation of the Work.

G. The U.S. EPA Project Coordinator may authorize, in writing, field modifications to the studies, designs, techniques, or procedures undertaken or utilized in performing the Work

required under this Consent Decree, provided that any such modifications are consistent with the ROD, and/or the Remedial Design. Such field modifications shall not be deemed a modification within the meaning of Section XXX.

## IX.

### WORK TO BE PERFORMED

A. All Work to be performed by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, pursuant to this Consent Decree shall be under the direction and supervision of a qualified professional engineer or technical expert, who shall not be an attorney engaged in the practice of law. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall select a reputable, qualified engineer or technical expert, who shall not be an attorney engaged in the practice of law, to direct and supervise the Work required by this Consent Decree, and shall notify U.S. EPA, in writing, in accordance with the procedures set forth in Section XXVII, of the name, title and qualifications of any person or firm proposed to be used in carrying out such activities, within ten (10) days of the effective date of this Consent Decree. U.S. EPA shall have the right to disapprove of any such person or firm based on their professional qualifications.

### B. Description of the Remedial Action:

In accordance with the Remedial Action Plan set forth in the ROD and Remedial Design, attached hereto as Appendix I and

Appendix II, respectively, and incorporated by reference in this Consent Decree, the following work shall be performed by Primary Settling Defendants, and as applicable, other Settling Defendants:

1. Installation of a cap over the landfill, and a methane gas venting system;
2. Installation of a slurry wall around the perimeter of the landfill;
3. Installation of a groundwater collection system within the landfill;
4. Construction of a treatment plant to treat collected groundwater;
5. Construction of a fence around the Site to restrict unauthorized access;
6. Implementation of a surficial cleanup of drums and debris at the borrow pit adjacent to the Site;
7. Operation and maintenance; and,
8. Long-term monitoring of water and air.

C. The construction components of the Remedial Action, as provided in Appendix I and Appendix II, shall include:

1. Installation of a cap over the landfill, and a methane gas venting system;
2. Installation of a slurry wall around the perimeter of the landfill;
3. Installation of a groundwater collection system within the landfill;

4. Construction of a treatment plant to treat collected groundwater;
5. Construction of a fence around the Site to restrict unauthorized access, and
6. Implementation of a surficial cleanup of drums and debris at the borrow pit adjacent to the Site.

D. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall award at least one contract to conduct the construction of one of the components of the Remedial Action, except a contract solely for construction of a fence, and shall submit the name of the selected contractor(s) to U.S. EPA, by either: 1) September 30, 1989; or, 2) within five days of the effective date of this Consent Decree, whichever is later.

E. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall solicit bids for work involving the other construction components of the Remedial Action, listed in Paragraph C of this Section, and within one hundred and twenty (120) days of the effective date of this Consent Decree, shall award the contract(s) to conduct the other construction components of the Remedial Action and submit the name of the selected contractor(s) to U.S. EPA.

F. Remedial Action Work Plan:

1. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall submit to U.S. EPA a Draft Remedial Action Work Plan ("RA Work Plan") to address the construction components of the

Remedial Action within sixty (60) days of the effective date of this Consent Decree.

2. The RA Work Plan shall include provisions for implementing the detailed specifications and plans in the Remedial Design, and at a minimum, the following items:

- a. Implementation of a Health and Safety Plan ("HASP") contained in the Remedial Design, and revised as necessary to conform with the requirements of 29 C.F.R. §1910.120, OSHA Hazardous Waste Operations Standards, and U.S. EPA's Standard Operating Safety Guides (November, 1984) and any other requirements set forth in Appendix II, and subsequent updates;
- b. Implementation of a quality assurance/quality control plan ("QA/QC Plan"), contained in the Remedial Design, and revised as necessary to conform to the publication Test Methods for Evaluating Solid Wastes (SW-846, November, 1986) or as updated, and USEPA QAMS-005/80, Interim Guidelines and Specifications for Preparation of Quality Assurance Project Plans, and any subsequent updates;
- c. A contingency plan for conducting remedial construction activities;
- d. A schedule for completion of the construction portion of the Work; and,
- e. An overall Site Management Plan ("SMP") for construction activities, including identification of contractors and subcontractors and their respective

responsibilities for performance of remedial construction activities.

1) The SMP shall include a list of all key responsible employees expected to participate in the Work and the curriculum vitae of each. The respective responsibilities for each key responsible employee shall be described.

2) The SMP shall identify all off-site facilities proposed to be used during implementation of the Work. For each facility, the proposed materials and methods of management shall be described.

3. U.S. EPA will either approve the Draft RA Work Plan thus making it a Final RA Work Plan, or require modifications, and will notify the Settling Defendants in writing of such approval or required modifications.

4. Should U.S. EPA require modifications to the Draft RA Work Plan, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have fifteen (15) days from the date of receipt of U.S. EPA's written modifications to submit the revised Draft RA Work Plan to U.S. EPA.

5. The Final RA Work Plan as approved by U.S. EPA shall be incorporated in this Consent Decree.

6. In accordance with the schedule for remedial construction as set forth in the U.S. EPA-approved RA Work Plan, the Primary Settling Defendants, and as applicable, Secondary

Settling Defendants shall complete the construction components of the Remedial Action.

**H. Remedial Construction Reports:**

1. Within forty (40) days after completion of the construction components of the Remedial Action, including the receipt by the Settling Defendants of all necessary data and documentation, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall submit a Draft Remedial Action Report to U.S. EPA documenting that all construction components of the Remedial Action have been completed in compliance with the terms set forth in the Remedial Design and this Consent Decree.

2. The Draft Remedial Action Report submitted to U.S. EPA by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall include, but shall not be limited to, the following:

- a. Verification that all construction equipment has been dismantled and removed from the Site;
- b. Verification and documentation that the Site has been remediated according to the specifications in the Remedial Design, the ROD, and this Consent Decree;
- c. Verification that the Site has been fenced, graded and revegetated according to the specifications in the Remedial Design; and



- d. Documentation that all other terms or specifications contained in the Remedial Design have been conducted satisfactorily in accordance with the ROD and this Consent Decree.

3. U.S. EPA will either approve the Draft Remedial Action Report, thus making it the Final Remedial Action Report, or require modifications, and U.S. EPA will notify the Primary Settling Defendants and Secondary Settling Defendants in writing of such approval or such required modifications.

4. Should U.S. EPA require modifications to the Draft Remedial Action Report, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall have fifteen (15) days from the date of receipt of U.S. EPA's written notice of modification or fifteen (15) days from completion of any field activities deemed necessary by U.S. EPA to submit the revised Draft Remedial Action Report to U.S. EPA.

5. U.S. EPA will make a final written evaluation of the sufficiency of the Draft Remedial Action Report.

#### I. Operation and Maintenance:

1. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall prepare a Draft Operation and Maintenance Manual ("O & M Manual"), which conforms to the U.S. EPA guidelines contained in Considerations for Preparation of Operation and Maintenance Manuals, (EPA 68-01-0341), and any updates,

and submit the Draft O & M Manual to U.S. EPA within thirty (30) days from U.S. EPA approval of the RA Work Plan covering the construction components of the Remedial Action.

2. U.S. EPA will either approve the Draft O & M Manual, thus making it a Final O & M Manual, or require modifications, and will notify the Primary Settling Defendants and Secondary Settling Defendants in writing of such approval or required modifications.

3. Should U.S. EPA require modifications to the Draft O & M Manual, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have ten (10) days from the date of receipt of U.S. EPA's written modifications to submit the revised Draft O & M Manual to U.S. EPA.

4. At such time as U.S. EPA determines that the O & M Manual is acceptable, U.S. EPA will provide written notification to the Primary Settling Defendants and Secondary Settling Defendants.

5. As directed by U.S. EPA, Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall implement the operation and maintenance portions of the selected remedy, pursuant to the approved O & M Manual.

6. The Final O & M Manual as approved by U.S. EPA shall be incorporated by reference into this Consent Decree.

7. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, may revise the Final O & M Manual, subject to U.S. EPA approval. Proposed revisions shall be submitted to U.S. EPA for approval, and U.S. EPA will either approve or require modifications to such proposed revisions. If U.S. EPA approves the proposed revisions, such revisions shall be incorporated into this Consent Decree and shall be implemented by Primary Settling Defendants, and as applicable, Secondary Settling Defendants. If U.S. EPA requires modifications to the proposed revisions, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have ten (10) days from the date of receipt of U.S. EPA's written modifications to submit revisions which conform to EPA's modifications. At such time as EPA determines that any proposed revisions are acceptable, U.S. EPA will notify Primary Settling Defendants and Secondary Settling Defendants, and the revisions shall be incorporated into this Consent Decree and shall be implemented by Primary Settling Defendants, and as applicable, Secondary Settling Defendants.

X.

SITE ACCESS, SAMPLING, DOCUMENT AVAILABILITY

A. To the extent that the Site or other areas where Work is to be performed is presently owned by parties other than those bound by this Consent Decree, Primary Settling Defendants, and as

applicable, Secondary Settling Defendants shall obtain access agreements from the present owners within thirty (30) days of entry of this Consent Decree for purposes of implementing the requirements of this Consent Decree. Such agreements shall provide access for U.S. EPA, the State and authorized representatives of U.S. EPA and the State.

B. During the effective period of this Consent Decree, the United States, the U.S. EPA and their representatives, including contractors, shall have access at all times to the Site and any property to which access is required for implementation of this Consent Decree, free of interference from the Settling Defendants, for purposes of conducting any activity authorized by this Consent Decree or by applicable law, including, but not limited to:

1. Monitoring the Work or any other activities taking place at or in connection with the Site;
2. Verifying any data or information submitted to U.S. EPA;
3. Conducting investigations related to contamination at or near the Site;
4. Obtaining samples at the Site;
5. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents;
6. Assessing the Primary Settling Defendants', and as applicable, Secondary Settling Defendants', compliance with this Consent Decree; and

7. Assessing the need for or planning and implementation of additional response actions at or near the Site.

C. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, and Plaintiff shall make available to each other the validated results of all sampling and/or tests or other data generated by such Primary Settling Defendants, and as applicable, Secondary Settling Defendants, or Plaintiff with respect to the implementation of this Consent Decree. Upon request by U.S. EPA, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall promptly provide U.S. EPA with any unvalidated results of all sampling and/or tests or other data generated by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, with respect to implementation of this Consent Decree.

D. Upon request, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall provide split or duplicate samples to Plaintiff or allow split or duplicate samples to be taken by Plaintiff, or its authorized representatives, of any samples collected by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, pursuant to the implementation of this Consent Decree. In addition, Plaintiff shall have the right to take any additional samples it deems necessary. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, or their authorized representatives, on request shall be allowed to take split or duplicate samples of samples taken by Plaintiff.

E. Except in an emergency, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall notify Plaintiff not less than ten (10) days in advance of any sample collection activity.

F. Nothing in this Consent Decree shall be construed to limit the Plaintiff's rights of access or rights to obtain information pursuant to applicable law.

## XI.

### QUALITY ASSURANCE/QUALITY CONTROL

A. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall adhere to an EPA-approved Quality Assurance/Quality Control Plan ("QA/QC Plan") for the Remedial Action activities, as stated in Section IX.

B. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall utilize standard U.S. EPA chain of custody procedures, as set forth in the National Enforcement Investigations Center Policies and Procedures Manual, as revised in November, 1984, and the National Enforcement Investigations Center Manual for the Evidence Audit, published in September, 1981, and any updates, for all sample collection and analysis activities.

C. The Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall use QA/QC procedures in accordance with the QA/QC Plan submitted to and approved by U.S. EPA pursuant to this Consent Decree and for all samples collected pursuant to this Consent Decree, the Primary Settling Defendants,

and as applicable, Secondary Settling Defendants, shall ensure that:

1. All contracts with laboratories utilized by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, for analysis of samples taken pursuant to this Consent Decree provide access for U.S. EPA personnel and their authorized representatives to assure the accuracy of laboratory results.

2. Any laboratories utilized by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, for analysis of samples taken pursuant to this Consent Decree perform all analyses according to methods approved in writing by U.S. EPA. Accepted U.S. EPA methods are documented in the "Contract Laboratory Program Statement of Work for Inorganic Analysis" and the "Contract Laboratory Program Statement of Work for Organic Analysis," dated December, 1987 and February, 1988, respectively.

3. Any laboratories utilized by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, for analysis of samples taken pursuant to this Consent Decree shall participate in an U.S. EPA or U.S. EPA equivalent QA/QC program.

## **XII.**

### **REPORTING REQUIREMENTS**

A. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit to U.S. EPA monthly written progress reports by the tenth day of every month following the date of entry of this Consent Decree, provided

that, after U.S. EPA certification of completion pursuant to Section XV of this Consent Decree, the progress reports shall be submitted quarterly rather than monthly. For each calendar month, or other period covered by the report, the progress reports shall:

1. Describe all actions which have been taken toward achieving compliance with this Consent Decree during the prior month;
2. Describe any violations of this Consent decree and other problems encountered during the prior month;
3. Describe all corrective actions taken in response to any violations or problems which occurred during the prior month;
4. Include the results of all sampling, tests and other data received or generated by Primary Settling Defendants and/or Secondary Settling Defendants or their contractors or agents during the course of implementing the Work;
5. Describe all plans, actions and data which are scheduled for the next two months and any other information relating to the progress of construction;
6. Include information regarding the percentage of completion; and
7. Include information regarding all delays encountered or anticipated that may affect the future schedule for performance of the Work, and all efforts made to mitigate delays or anticipated delays.



B. If the date for submission of any item or notification required by this Section falls upon a weekend or Federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

C. U.S. EPA will notify Primary Settling Defendants and Secondary Settling Defendants in writing if U.S. EPA determines that a progress report is incomplete or deficient. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall make the necessary revisions and resubmit the revised progress report with the next scheduled progress report or, if the next scheduled progress report is due less than seven (7) days following Primary Settling Defendants' and Secondary Settling Defendants' receipt of the notice of deficiency, with the subsequently scheduled progress report.

D. 1. Upon the occurrence of any incident during performance of the Work which requires reporting to the National Response Center, pursuant to Section 103 of CERCLA, 42 U.S.C. §9603, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall notify the U.S. EPA Project Coordinator promptly.

2. If the U.S. EPA Project Coordinator is unavailable, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall promptly notify the U. S. EPA Response and Prevention Branch, Region II at (201) 548-8730, in addition to the reporting required by Section 103 of CERCLA, 42 U.S.C. §9603.

3. Within ten (10) days of the onset of such an incident, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit to U.S. EPA a written report setting forth the events which occurred and the measures taken and to be taken in response thereto.

4. Within twenty (20) days of the conclusion of such an incident, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit a report to U.S. EPA setting forth all actions taken in response thereto.

### XIII.

#### ADDITIONAL WORK

A. If U.S. EPA determines or if Primary Settling Defendants, and as applicable, Secondary Settling Defendants, determine that additional work, additional remedial design and/or additional response action (collectively "Additional Work") is necessary to protect human health or the environment and to meet the requirements of the Remedial Action Plan and/or the Remedial Design, written notice of such Additional Work shall be provided by U.S. EPA or the Primary Settling Defendants, and as applicable, Secondary Settling Defendants. Any such Additional Work which Primary Settling Defendants, and as applicable, Secondary Settling Defendants, determine to be necessary is subject to approval by U.S. EPA in accordance with the procedures set forth in Paragraph D of this Section.

B. If U.S. EPA determines or if Primary Settling Defendants, and as applicable, Secondary Settling Defendants,

determine that Additional Work beyond the Remedial Action Plan and the requirements of the Remedial Design is necessary, written notice of such Additional Work shall be provided by U.S. EPA or the Primary Settling Defendants, and as applicable, Secondary Settling Defendants. Upon written mutual agreement of U.S. EPA and the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, such Additional Work shall be implemented by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, upon approval by U.S. EPA, in accordance with the procedures set forth in Paragraph D of this Section.

C. Notwithstanding Paragraphs A or B of this Section, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall use their best efforts to obtain a permit or other lawful authorization, with reasonable limitations and charges, from the Ocean County Utilities Authority ("OCUA") to discharge the effluent from the treatment plant to the OCUA at the earliest possible date. At such time as Primary Settling Defendants, and as applicable, Secondary Settling Defendants, obtain such permit or authorization, or at such time as U.S. EPA, in its sole discretion, determines that obtaining such permit or authorization is possible, written notice of such permit or authorization, or of U.S. EPA's determination that obtaining such permit or authorization is possible, shall be provided to the Parties. Upon receipt of such written notice, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall take all necessary measures to discharge the effluent from the treatment system to the OCUA, upon approval by U.S. EPA in

accordance with the procedures set forth in Paragraph D of this Section.

D. Additional Work within Paragraphs A, B or C of this Section may be incorporated in this Consent Decree and implemented by the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, as a requirement of this Consent Decree in accordance with the following procedure:

1. Unless otherwise notified in writing by U.S. EPA, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit a work plan, which shall include a schedule for implementation of the Additional Work, to U.S. EPA within thirty (30) days of receipt of the written notice referred to in Paragraphs A or C of this Section, or the written mutual agreement referred to in Paragraph B of this Section.
2. U.S. EPA shall approve or disapprove the work plan, consistent with the requirements of this Consent Decree.
3. If U.S. EPA disapproves the work plan, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit to U.S. EPA a revised work plan pursuant to the provisions of Section XVII of this Consent Decree.
4. Upon approval by U.S. EPA, any new or revised work plan shall be incorporated by reference in this Consent Decree, and shall be implemented by Primary Settling Defendants, and as applicable, Secondary Settling Defendants. A failure to comply with the new or revised work plan shall be deemed a violation of this Consent Decree.

E. Any Additional Work or modifications to the work plan not within the Remedial Action Plan and the requirements of the Remedial Design may not be incorporated in this Consent Decree except in accordance with this Section; provided, however that nothing in this Section shall be construed to relieve the Settling Defendants of their obligations to meet and maintain compliance with the requirements of this Consent Decree, nor impair the rights of U.S. EPA pursuant to the reservations in Paragraphs D and E of Section XXIV, Covenant Not to Sue, to require additional work in a subsequent judicial or administrative action.

#### XIV.

##### ENDANGERMENT AND FUTURE RESPONSE

A. If any action or occurrence during the performance of the Work causes or threatens to cause a release of a Waste Material that constitutes an emergency event or that may present an imminent and substantial endangerment to the public health or welfare or the environment, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall immediately take all appropriate action to prevent, abate or minimize such release or endangerment, and shall immediately notify the U.S. EPA Project Coordinator or, in the event of his or her unavailability, the U.S. EPA Response and Prevention Branch in Edison, New Jersey at (201) 548-8730.

B. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall respond to such action or

occurrence in accordance with the provisions of the Health and Safety/Contingency Plans developed and approved pursuant to this Consent Decree.

C. 1. If Primary Settling Defendants, and as applicable, Secondary Settling Defendants, fail to take appropriate response action, and U.S. EPA takes such response action, Primary Settling Defendants and Secondary Settling Defendants shall reimburse U.S. EPA for the costs of such response action.

2. Payment of such response costs shall be made in the manner described in Section XIX, as applicable, within thirty (30) days of Primary Settling Defendants' and Secondary Settling Defendants' receipt of a demand for payment and an accounting of the costs incurred.

D. Nothing in this Section shall be deemed to limit the power and authority of U.S. EPA or this Court to take, direct or order all appropriate action to protect human health and/or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances at or from the Site.

#### XV.

##### CERTIFICATION OF COMPLETION OF THE WORK

A. Within forty (40) days of completion of the construction components of the Remedial Action, as set forth in Section IX, including receipt by Settling Defendants of all necessary data and documentation, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall submit to U.S. EPA a Draft Remedial Action Report, as specified in

Paragraph H of Section IX of this Consent Decree, prepared and signed by a State-licensed Professional Engineer certifying that all such activities have been completed in full satisfaction of the requirements of this Consent Decree.

B. The report shall include documentation of compliance with and completion of the requirements of this Consent Decree. The report shall also include the following certification statement signed by a responsible corporate officer on behalf of each Primary Settling Defendant, and as applicable, Secondary Settling Defendant:

"I certify that the information contained in or accompanying this report is true, accurate and complete to the best of my knowledge and belief. As to those identified portions of this report for which I cannot personally verify their truth and accuracy, my certification is based on the information (attached hereto) supplied by the agents and contractors acting on behalf of the Settling Defendants."

C. 1. If U.S. EPA determines that the Work or any portion thereof has not been completed in accordance with the standards and specifications set forth in this Consent Decree, the Record of Decision, the Remedial Design, and any additional report which may be required pursuant to this Consent Decree, U.S. EPA shall notify Primary Settling Defendants and Secondary Settling Defendants in writing of those tasks which must be performed to complete the Work.

2. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall then implement the specified activities and tasks in accordance with the specifications and schedules established by U.S. EPA and shall then submit a further report and certification signed by a licensed professional

engineer, within fifteen days after completion of the specified activities and tasks.

D. Any portion of the Work performed pursuant to this Consent Decree shall not be deemed complete until it has been reviewed by U.S. EPA and approved by U.S. EPA in writing.

E. After U.S. EPA determines that the construction components of the Remedial Action have been fully completed by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, U.S. EPA shall certify full completion in writing. This certification shall constitute the certification of completion of the construction components of the Work for purposes of this Consent Decree.

#### XVI.

##### U.S. EPA PERIODIC REVIEW TO ASSURE PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT

A. Pursuant to Section 121(c) of CERCLA, 42 U.S.C. §9621(c), and any applicable regulations, U.S. EPA shall review the Remedial Action at the Site at least every five (5) years after the entry of this Consent Decree to assure that human health and the environment are being protected by the Remedial Action being implemented, with respect to the source of contamination addressed by the Work required under this Consent Decree.

B. If upon such review, U.S. EPA determines that further response action in accordance with Sections 104 or 106 of CERCLA, 42 U.S.C. §9604 or §9606, is appropriate at the Site, then



subject to Section XXIV, Covenant Not to Sue, the U.S. EPA may take or require such action in a subsequent Administrative or Judicial proceeding, or, if appropriate, pursuant to Section XIII, require Primary Settling Defendants, and as applicable, Secondary Settling Defendants, to undertake such action. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, reserve any rights they may have, consistent with the terms of this Consent Decree, to contest any such action.

**XVII.**

**PLANS, REPORTS AND OTHER ITEMS REQUIRING AGENCY APPROVAL**

A. If U.S. EPA disapproves any plan, report (other than a progress report covered by Section XII), or other item required to be submitted to U.S. EPA for approval pursuant to this Consent Decree, including any work plan for Additional Work submitted pursuant to Section XIII, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have ten (10) days from receipt of the written notice of such disapproval plus additional time necessary for field work, as determined by U.S. EPA, to correct any deficiencies and resubmit the plan, report or other item for approval, unless a shorter or longer period is specified in the notice or in another Section of this Consent Decree.

B. Any notice of disapproval from U.S. EPA shall include an explanation of why the plan, report or other item is being disapproved. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall address each of U.S. EPA's

comments and resubmit the previously disapproved plan, report, or other item along with the required changes to U.S. EPA within the time period set forth above.

C. If U.S. EPA determines that any such plan, report, or other item required under this Consent Decree is not adequately revised by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, in the subsequent submittal, including a failure to correct any deficiencies identified by U.S. EPA, Primary Settling Defendants shall be deemed in violation of this Consent Decree.

D. If a submittal or portion thereof is disapproved after its resubmittal by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, U.S. EPA shall in its discretion amend or develop the submittal unilaterally.

#### XVIII.

##### INSURANCE AND INDEMNIFICATION

A. The United States does not assume any liability by entering into this Consent Decree. The Primary Settling Defendants and Secondary Settling Defendants agree to indemnify, save and hold harmless the United States and U.S. EPA (including their officials, agencies, departments, and employees, contractors, subcontractors and any persons acting on their behalf or under their control in carrying out activities pursuant to this Consent Decree) from any and all claims or causes of action arising from the activities of the Primary Settling

Defendants, and as applicable, Secondary Settling Defendants, related to this Consent Decree.

B. Neither the United States nor U.S. EPA shall be represented as a party to any contract entered into by or on behalf of the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, in carrying out activities pursuant to this Consent Decree.

C. Neither the Settling Defendants nor any contractor shall be considered an agent of the United States or U.S. EPA.

D. Primary Settling Defendants and Secondary Settling Defendants shall indemnify, save and hold harmless the United States and U.S. EPA with respect to any claims for damages or reimbursement, for set-off of any payments made or to be made from or on account of any contract, agreement, or arrangement between Primary Settling Defendants and Secondary Settling Defendants and any person for performance of Work relating to the Site including, but not limited to, claims on account of construction delays.

E. Prior to commencing any on-site work, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, or their Contractors and Subcontractors together shall secure, and shall maintain for the duration of this Consent Decree, Automobile Liability Insurance, including bodily injury liability and property damage liability with a minimum of one million dollars (\$1,000,000) for each person and each occurrence; Comprehensive General Liability Insurance which includes, but is not necessarily limited to, coverage for contractual liability,

property damage and bodily injury with coverage of five million dollars (\$5,000,000) combined single limit. The United States and U.S. EPA shall be named as additional insureds.

F. Prior to the commencement of any on-site work, U.S. EPA shall be provided with certificates evidencing the insurance coverage required by Paragraph E of this Section.

G. In the event that Primary Settling Defendants and Secondary Settling Defendants or their Contractors or Subcontractors are unable through their best efforts to obtain some or all of the Comprehensive General Liability Insurance specified in Paragraph E of this Section, or can only obtain such insurance at unreasonable rates, they shall send U.S. EPA written notice of their inability to obtain the required insurance. The notice shall identify which kinds of insurance are unavailable, describe Primary Settling Defendants and Secondary Settling Defendants' efforts to obtain such insurance, and summarize the key terms, including the cost, of any insurance which Primary Settling Defendants and Secondary Settling Defendants claim to be available only at unreasonable rates. If U.S. EPA determines that Primary Settling Defendants and Secondary Settling Defendants did exercise best efforts to obtain the required coverage and that such coverage was not available or was only available at unreasonable rates, U.S. EPA and Primary Settling Defendants and Secondary Settling Defendants may mutually agree on reasonable alternative coverage, including self-insurance.

H. For the duration of this Consent Decree, Primary Settling Defendants, and as applicable, Secondary Settling

Defendants, shall guarantee or ensure that their contractors and subcontractors are in full compliance with all applicable workers' compensation laws and regulations for all persons performing work on behalf of Settling Defendants in furtherance of this Consent Decree.

I. Prior to commencement of Work under this Consent Decree, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall provide U.S. EPA with the certificates of insurance evidencing the foregoing coverage and a copy of each insurance policy. If Primary Settling Defendants, and as applicable, Secondary Settling Defendants, demonstrate by satisfactory evidence that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then, with respect to that contractor or subcontractor, Primary Settling Defendants and Secondary Settling Defendants may provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

#### **XIX.**

##### **REIMBURSEMENT OF RESPONSE COSTS**

A. Settling Defendants shall enter into the Lone Pine Landfill Settlement Agreement which shall establish the Lone Pine Landfill Trust Fund ("Trust Fund"). The Trust Fund shall be used to pay for Settling Defendants' obligations under this Consent Decree, including the payment of oversight costs to U.S. EPA.

B. Settling Defendants, pursuant to the settlement agreement among them, shall in any event make payments to the Trust Fund when and to the extent necessary to ensure the uninterrupted progress and timely completion of the Work and to pay U.S. EPA its oversight costs, as provided in this Section.

C. The Trust Fund shall be preserved until full payment and a final accounting of all oversight costs has been made pursuant to this Consent Decree.

D. 1. In full settlement of all claims against Settling Defendants for all Past Costs, Settling Defendants shall reimburse the United States for all costs in excess of \$500,000 incurred in connection with the review or development of plans, reports and other items required by this Consent Decree and the oversight or verification of Work pursuant to this Consent Decree, or in securing access to the Site or any other property to which access is required for the performance of the Work.

2. U.S. EPA may send Settling Defendants a demand for payment of such costs, together with an accounting of the costs claimed, on an annual basis, with each demand to be made as soon as practicable after the anniversary of the date of entry of this Consent Decree.

3. Payment shall be made from the Settling Defendants' Trust Fund within thirty (30) days of Settling Defendants' receipt of the demand for payment.

4. Payment to U.S. EPA under this Section shall be made by mailing a certified check, made payable to "EPA Hazardous Substance Superfund", and referencing the Lone Pine Landfill

Superfund Site and the Civil Action Number of this matter, to the U.S. EPA, Region 2, Attention: Superfund Accounting, P.O. Box 360188M, Pittsburgh, Pennsylvania 15251. Copies of the certified check(s) shall be sent to U.S. DOJ and U.S. EPA in accordance with Section XXVII.

E. Within thirty (30) days of the entry of this Consent Decree, ATSDR shall be paid \$1372.86 from the Trust Fund, plus the accumulated interest on that amount calculated from the date of lodging of this Consent Decree, in accordance with Section 107(a) of CERCLA, 42 U.S.C. §9607(a). Such payment shall be for costs incurred by ATSDR prior to the date of lodging of this Consent Decree in performing health assessments for the site in accordance with Section 104(i)(6)(A) of CERCLA, 42 U.S.C. §9604(i)(6)(A). Payment to ATSDR shall be made by mailing a certified check made payable to "Agency for Toxic Substances and Disease Registry," referencing the Lone Pine Landfill Superfund Site and the Civil Action Number of this matter, to the address specified in Paragraph D.4. of this Section. Copies of the certified check(s) shall be sent to U.S. DOJ and U.S. EPA in accordance with Section XXVII, and to ATSDR, Attention: Management Analyst, 1600 Clifton Road, NE F-38, Atlanta, Georgia 30333.

F. Any payments made by Settling Defendants pursuant to this Section do not constitute penalties, fines or monetary sanctions.

FORCE MAJEURE

OC 210

A. For purposes of this Consent Decree, Force Majeure shall mean any act of God, any delay which results from inability to secure access to the Site if the cause of such inability is not within the control of the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, any delays caused by a failure on the part of U.S. EPA to complete in a timely manner a review of plans and reports, or any other cause or event attributable to unforeseen circumstances beyond the control of Primary Settling Defendants, and as applicable, Secondary Settling Defendants, and of any entity controlled by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, including their contractors and subcontractors, which delays or prevents the performance of any obligation under this Consent Decree. Force majeure shall not include unanticipated or increased costs or expenses, financial incapacity of the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, or nonattainment of the goals and standards set forth herein or in the Record of Decision, the Remedial Design, or in plans or other documents prepared by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, and approved pursuant to this Consent Decree.

B. When circumstances occur which are likely to delay the completion of any phase of the Work, or delay access to the Site or to any property on which any part of the Work is to be performed, whether or not caused by a force majeure, Primary



Settling Defendants, and as applicable, Secondary Settling Defendants, shall notify the U.S. EPA Project Coordinator orally or in writing of such circumstances within twenty-four (24) hours of their occurrence, or in the event of his or her unavailability, the Chief of the New Jersey Compliance Branch of the Emergency and Remedial Response Division of U.S. EPA Region II or his or her authorized representative. If such notification must occur after working hours, on a weekend or holiday, notification shall be provided to the U.S. EPA Response and Prevention Branch in Edison, New Jersey at (201) 548-8730.

C. Within five (5) days of when Primary Settling Defendants, and as applicable, Secondary Settling Defendants, first become aware or should have become aware of the event which they contend is responsible for the delay, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall supply to Plaintiff, in writing, an explanation of the cause of any actual or anticipated delay or noncompliance, the anticipated or actual duration of such delay, the measures taken and/or to be taken by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, to prevent or minimize the delay or correct the noncompliance, and the timetable for implementation of such measures. Such notice shall be accompanied by all available pertinent documentation including, but not limited to, third party correspondence.

D. Failure to give timely written notice to U.S. EPA in accordance with this Section shall constitute a waiver of any claim of force majeure.

E. If Primary Settling Defendants, and as applicable, Secondary Settling Defendants, claim and U.S. EPA agrees, or the Court determines pursuant to Section XXI of this Consent Decree, that a delay or noncompliance is or was attributable to a force majeure event, U.S. EPA shall modify the affected plans or schedules incorporated into this Consent Decree and/or other relevant documents to provide such additional time as may be necessary to complete the specific phase of the Work and/or any succeeding phase of the Work affected by such delay, with such additional time not to exceed the actual duration of the delay resulting from the force majeure, and if agreed to by the Parties, such additional time as may be necessary for the resumption of work.

F. U.S. EPA's determination that a delay in achieving any milestone established by this Consent Decree, and/or other relevant documents, is or was attributable to force majeure shall not excuse delay in achievement of a subsequent milestone unless U.S. EPA makes a written determination excusing delay on the subsequent milestone.

G. In any proceedings in connection with a dispute regarding a delay in performance or other noncompliance, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have the burden of proving (1) that the delay or noncompliance is or was caused by a force majeure, (2) that the amount of additional time requested is necessary to compensate for such event, and (3) that additional time is essential with respect to a subsequent milestone.

## XXI.

DISPUTE RESOLUTION

A. As required by Section 121(e)(2) of CERCLA, 42 U.S.C. §9621(e)(2), U.S. EPA and the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall attempt to resolve expeditiously and informally any disagreements concerning implementation of this Consent Decree and any Work required hereunder.

B. In the event that any dispute between U.S. EPA and the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, arising under this Consent Decree is not resolved through informal negotiations within thirty (30) days from the date the dispute arises, or within such other longer time as agreed by the parties involved, the position advanced by U.S. EPA shall be considered binding, unless within five (5) days after the negotiation period ends, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, invoke the dispute resolution procedures of this Section by providing written notice to the United States and U.S. EPA.

C. Within ten (10) days of the service of notice of dispute pursuant to Paragraph B of this Section, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall serve on the United States a written statement of the issues in dispute, the relevant facts upon which the dispute is based, the factual data, analysis or opinion supporting their position, and all supporting documentation on which they rely ("Statement of Position"). U.S. EPA shall serve

its Statement of Position, including supporting documentation, no later than ten (10) days after receipt of the Primary Settling Defendants, and as applicable, Secondary Settling Defendants' Statement of Position. In the event that these ten day time periods for exchange of Statements of Position may cause a delay in the Work, they may be shortened by agreement or to a reasonable period which cannot be less than one business day after receipt of written notice by U.S. EPA.

D. An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notice of the dispute, the Statements of Position served pursuant to the preceding paragraphs, and any other submission served on the parties involved.

E. Upon review of the administrative record, the Director of the Emergency and Remedial Response Division, U.S. EPA, Region II, shall issue a final decision and order resolving the dispute. This order shall be enforceable administratively pursuant to Section 121(e)(2) of CERCLA, subject to the rights of judicial review set forth in the following Paragraph F.

F. Until the date of termination of this Consent Decree, any decision and order of U.S. EPA pursuant to the preceding Paragraph E shall be reviewable by this Court, provided that a petition is filed with this Court within ten (10) days of receipt of U.S. EPA's decision and order.

G. The filing of a notice of dispute pursuant to Paragraph B or a petition pursuant to Paragraph F, and proceedings under either, shall not automatically extend or postpone any obligation

of the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, under this Consent Decree, except that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute.

Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that Primary Settling Defendants, and as applicable, Secondary Settling Defendants, do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XXII.

H. In proceedings concerning any dispute relating to the selection, extent, or adequacy of any aspect of the Work, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have the burden of demonstrating, on the administrative record as defined in Paragraph D of this Section, that the position of U.S. EPA is arbitrary and capricious or otherwise not in accordance with law. For purposes of this Paragraph, the adequacy of any aspect of the Work includes (1) the adequacy or appropriateness of plans, procedures to implement plans, or any other items requiring approval by U.S. EPA under this Consent Decree; and (2) the adequacy of Work performed pursuant to this Consent Decree. For any other dispute arising under this Consent Decree, the Court shall determine the appropriate standard and scope of review under applicable law. In proceedings on any dispute, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall have the

burden of coming forward with evidence and the burden of persuasion on factual issues.

I. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under and with respect to this Consent Decree and shall apply to all provisions of this Consent Decree, unless otherwise provided herein. However, notwithstanding any other provision of this Section XXI, any decision by U.S. EPA to approve or disapprove any proposed modifications to the Remedial Design, as contemplated by Paragraph 8 of Section V of this Consent Decree, shall be final and shall not be subject to the provisions of this Section XXI. Nevertheless, U.S. EPA's approval of any proposed modifications to the Remedial Design will not be unreasonably withheld.

CC 103  
XXII.

STIPULATED PENALTIES

A. Except as provided in Section XX, Force Majeure, and the following Paragraphs of this Section, in the event that Settling Defendants fail to comply with any of the following requirements of this Consent Decree after the entry of this Consent Decree with this Court, the Primary Settling Defendants shall pay Stipulated Penalties to the Plaintiff as provided in this Section for each day they fail to comply with such requirement:

1. provision of assurance of ability to complete work;

2. award of contract(s) and submission of the name of the selected contractor(s) to U.S. EPA;
3. submission and, if necessary, revision and resubmission of the RA Work Plan;
4. implementation of the construction components of the Remedial Action in accordance with the RA Work Plan;
5. implementation of the operation and maintenance and long-term monitoring components of the Remedial Action in accordance with the Final O & M Manual;
6. implementation of any Additional Work in accordance with a work plan submitted by Settling Defendants and approved by U.S. EPA pursuant to Section XIII of this Consent Decree;
7. submission and, if necessary, revision and resubmission of the Draft Remedial Action Report;
8. submission and, if necessary, revision and resubmission of the Draft O & M Manual;
9. implementation and completion of the construction components of the Remedial Action in accordance with the schedule in the RA Work Plan; and/or
10. any violation as specified in Paragraph C of Section XVII of this Consent Decree.

B. The Primary Settling Defendants shall pay to the United States stipulated penalties in the following amounts for each day of each violation of any requirement specified in Paragraph A of this Section:

<u>Period of Noncompliance</u>	<u>Penalty per Violation Per Day</u>
1st thru 7th day	\$ 1,000
8th thru 14th day	\$ 2,000
15th thru 29th day	\$ 3,500
30th thru 44th day	\$ 5,000
45th thru 59th day	\$ 7,500
60th day and beyond	\$15,000

C. The Primary Settling Defendants shall pay to the Plaintiff stipulated penalties in the amount of \$750.00 per day for each day that the Settling Defendants fail to:

1. designate and notify U.S. EPA of their selected Project Coordinator;
2. select and notify U.S. EPA of their qualified professional engineer or scientist;
3. comply with the reporting requirements set forth in Section XII; and/or
4. meet any requirement for any payment of ATSDR costs, oversight costs, stipulated penalties or interest required hereunder.

D. The Primary Settling Defendants shall pay to the Plaintiff stipulated penalties in the amount of \$500.00 per day for each day that the Settling Defendants fail to meet any deadline, time limit or scheduling milestone established under this Consent Decree not specifically referred to in Paragraphs A or C of this Section.



E. Stipulated penalties shall begin to accrue on the day that performance is due or a noncompliance occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

F. Nothing in this Consent Decree shall be construed to prevent U.S. EPA from waiving imposition of all or part of any stipulated penalties.

G. All penalties due to the United States under this Section shall be payable within thirty (30) days of Primary Settling Defendants' receipt of a notification of non-compliance by U.S. EPA and a written demand stating the amount of penalty due. Penalties shall accrue from the date of violation regardless of whether U.S. EPA has notified Primary Settling Defendants of a violation, except that penalties for any violation pursuant to Paragraph A.10. of this Section shall begin to accrue on the day following Primary Settling Defendants' receipt of notice of such a violation. Interest shall begin to accrue on the unpaid balance at the end of the thirty (30) day period.

H. Pursuant to 31 U.S.C. §3717, interest shall accrue on any amounts overdue under this Section at a rate established by the Department of Treasury for any period of such delinquency. A handling charge shall be assessed at the end of each thirty (30) day late period, and a six (6) percent per annum penalty charge

shall be assessed if the penalty is not paid within ninety (90) days of the due date.

I. Stipulated penalties due to the United States shall be paid by certified check made payable to the "Hazardous Substance Response Trust Fund" and shall contain Primary Settling Defendants' complete address, the Site name, and this civil action number. All checks shall be mailed to U.S. EPA Region II, Attention: Superfund Accounting, P.O. Box 360188N, Pittsburgh, Pennsylvania 15251. A copy of the certified check shall be sent to the Office of Regional Counsel, U.S. EPA, Region II, 26 Federal Plaza, New York, New York, 10278, Attention: Lone Pine Landfill Superfund Site Attorney.

J. Neither the filing of a notice nor a petition to resolve a dispute nor the payment of penalties shall alter in any way Settling Defendants' obligations under this Consent Decree.

K. No payments made under this Paragraph shall be deductible for federal or state income tax purposes.

L. The stipulated penalties due from Primary Settling Defendants in accordance with this Section shall be in addition to any other remedies, sanctions, or penalties which may be available to the United States or its agencies or departments by reason of Primary Settling Defendants' failure to comply with requirements of this Consent Decree, except that the United States agrees not to seek both stipulated penalties and penalties pursuant to Section 109 of CERCLA for the same violation.

M. The Parties will regularly confer with each other about the progress of the Work and problems in meeting any deadlines

under this Consent Decree. Any failure to confer is not a defense to Stipulated Penalties.

H. Primary Settling Defendants may dispute whether a violation occurred, whether the violation is subject to the penalty amount of Paragraph B, Paragraph C, or Paragraph D of this Section, and the number of days of such violation by invoking the Dispute Resolution provisions of this Consent Decree within twenty (20) days of receipt of U.S. EPA's demand for payment of stipulated penalties.

### XXIII.

#### CONTRIBUTION PROTECTION

A. Settling Defendants are entitled to protection from contribution claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. §9613(f)(2), with respect to any claim for Covered Matters as defined in Paragraph B of Section XXIV, relating to the Site that is asserted or may be asserted by a party not a signatory to this Consent Decree against a Settling Defendant.

B. The Court expressly finds that the settlement reached with the Settling Defendants was at arm's length and is in good faith, is a fair settlement of the liability of the Settling Defendants, and is in the public interest. Pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. §9613(f)(2), the consideration provided by Settling Defendants pursuant to this Consent Decree shall reduce the potential liability to the United States of potentially responsible parties not subject to this Consent Decree with respect to the Site. This settlement in no way

reduces the potential liability of potentially responsible parties not subject to this Consent Decree to the Settling Defendants.

C. The Court bars all contribution claims for Covered Matters against any Settling Defendant asserted by another Settling Defendant. Nothing contained herein shall prevent any Settling Defendant from pursuing a claim against another Settling Defendant for a contractual right of indemnification in an appropriate Court.

D. Settling Defendants further retain and reserve the right to assert claims against other Settling Defendants to enforce any settlement agreements among themselves relating to 1) the performance of their obligations under this Consent Decree or 2) determination of allocation shares for such performance.

#### XXIV.

##### COVENANT NOT TO SUE

A. In consideration of actions which shall be performed and payments which shall be made by the Settling Defendants under the terms of this Consent Decree, and except as otherwise specifically provided in this Consent Decree, the United States covenants not to sue or take any administrative action against the Settling Defendants or their officers or employees, in their capacities as representatives of Settling Defendants, for Covered Matters.

B. Covered Matters shall include any and all claims relating to the Site, available to Plaintiff under Sections 106

and 107(a) of CERCLA, 42 U.S.C. §9606 and §9607(a), and Section 7003 of SWDA, 42 U.S.C. §6973, and all claims alleged in Plaintiff's Complaint against the Settling Defendants filed concurrently with this Consent Decree. This Covenant Not to Sue shall take effect (1) as to the construction components of the Remedial Action covered by this Consent Decree, after certification by U.S. EPA of the completion of the construction components of the Remedial Action required by this Consent Decree; (2) as to Past Costs, after payment to ATSDR is made; and (3) as to operation and maintenance, after a determination by U.S. EPA that no further operation and maintenance is required.

C. Covered Matters shall not include:

1. Liability relating to the "off-site" area which is the subject of a separate remedial investigation and feasibility study, and for which a subsequent record of decision will be signed;
2. Liability arising from waste material removed from the Site;
3. Liability for injury to, destruction of or loss of natural resources;
4. Claims based on criminal liability;
5. Claims based on a failure by the Settling Defendants to meet a requirement of this Consent Decree;
6. Liability for violations caused by acts or omissions of the Settling Defendants and their agents of Federal or State law which occur during implementation of the Remedial Action;

7. Liability that arises from acts, events or omissions after the date of entry of this Consent Decree;

8. Liability for Settling Defendants' individually incurred response costs; and

9. Liability for costs incurred by ATSDR after the date of lodging of this Consent Decree.

D. Pre-certification reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves the right to institute proceedings in this action, consistent with Section XIII of this Consent Decree, or in a new judicial or administrative action seeking to compel Settling Defendants (1) to perform additional response actions at the Site, or (2) to reimburse the United States for response costs if, prior to certification of completion of the construction components of the Remedial Action:

1. Conditions at the Site, previously unknown to the United States, are discovered after the entry of this Consent Decree, or

2. Information is received, in whole or in part, after the entry of this Consent Decree, and the U.S. EPA Administrator or his or her delegate finds, based on these previously unknown conditions or this information, together with any other relevant information, that the Work is not protective of human health and the environment.

E. Post-certification reservations. Notwithstanding any other provision of this Consent Decree, the United States reserves the right to institute proceedings in this action,

consistent with Section XIII of this Consent Decree, or in a new judicial or administrative action seeking to compel Settling Defendants (1) to perform additional response actions at the Site, or (2) to reimburse the United States for response costs if, subsequent to certification of completion of the construction components of the Remedial Action:

1. Conditions at the Site, previously unknown to the United States, are discovered after the certification of completion of the construction components of the Remedial Action, or

2. Information is received, in whole or in part, after the certification of completion of the construction components of the Remedial Action, and the U.S. EPA Administrator or his or her delegate finds, based on these previously unknown conditions or this information, together with any other relevant information, that the Work is not protective of human health and the environment.

F. General reservation of rights. The covenants not to sue set forth above do not pertain to any matters other than those expressly specified as Covered Matters. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all other matters including, but not limited to:

1. All matters listed under Paragraph C of this Section;

2. Any matter as to which the United States is owed indemnification;

3. Liability for third party claims asserted against the United States or U.S. EPA.

6. Nothing in this Consent Decree shall constitute or be construed as a release or a covenant not to sue regarding any claim or cause of action against any person, firm, trust, joint venture, partnership, corporation or other entity not a signatory to this Consent Decree for any liability it may have arising out of or relating to the Site. Plaintiff expressly reserves the right to institute an enforcement action and to sue any person other than Settling Defendants in connection with the Site.

XXV.

COVENANTS BY SETTLING DEFENDANTS

A. Settling Defendants hereby covenant not to sue the United States for any claims related to or arising from the Work or this Consent Decree, and shall make no claims whether direct or indirect for reimbursement from the Hazardous Substance Superfund established pursuant to Section 221 of CERCLA, 42 U.S.C. §9631. Settling Defendants reserve, and this Consent Decree is without prejudice to, all other rights they may have in law or in equity.

B. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. §9611 or 40 C.F.R. 300.25(d), or any amendments thereto.



RETENTION AND AVAILABILITY OF INFORMATION

cc102

A. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall make available to U.S. EPA and shall retain, during the pendency of this Consent Decree and for a period of six (6) years after its termination, all records and documents in their possession, custody, or control which relate to the performance of this Consent Decree, including, but not limited to, documents reflecting the results of any sampling, tests, or other data or information generated or acquired by any of them, or on their behalf, with respect to the Site.

Notwithstanding the foregoing, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, may, in writing, request written permission from the United States to destroy records or documents in the interim, and the United States in its discretion may grant such a request.

B. After the six (6) year period of document retention, Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall notify U.S. DOJ and U.S. EPA in writing at least ninety (90) days prior to the proposed destruction of any such documents, and shall not destroy any such documents without the express written permission of the United States. If the United States objects or denies permission for an interim or final document destruction, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall relinquish custody of the documents to U.S. EPA, and the obligations of the Primary Settling Defendants, and as

applicable, Secondary Settling Defendants, with respect to such documents shall cease.

C. Primary Settling Defendants, and as applicable, Secondary Settling Defendants, may assert business confidentiality claims covering part or all of the information provided in connection with this Consent Decree in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7), and pursuant to 40 C.F.R. Part 2, and applicable State law.

D. Information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to U.S. EPA, the public may be given access to such information without further notice to Primary Settling Defendants, and as applicable, Secondary Settling Defendants.

E. Information acquired or generated by Primary Settling Defendants, and as applicable, Secondary Settling Defendants, in performance of the Work under this Consent Decree shall not be claimed as confidential by Primary Settling Defendants, and as applicable, Secondary Settling Defendants.

F. Nothing herein shall waive the Primary Settling Defendants', and as applicable, Secondary Settling Defendants', rights to assert any applicable work product or attorney-client privilege and to withhold documents on the basis of such privilege, consistent with the Federal Rules of Civil Procedure and the case law. Upon request by the United States, the Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall identify in writing the documents withheld and

the basis for the claim of privilege. Any dispute concerning whether a document is privileged shall be resolved in accordance with the Dispute Resolution procedures set forth in Section XXI herein.

XXVII.

NOTICES

Whenever, under the terms of this Consent Decree, notice is required to be given, a report or other document is required to be forwarded by one party to another, or any other written communication is required, the following individuals shall be the recipients unless those individuals or their successors give written notice of a change to the other parties:

As to the United States or U.S. EPA:

Chief, New Jersey Superfund Branch  
Office of Regional Counsel  
U.S. Environmental  
Protection Agency  
26 Federal Plaza  
New York, NY 10278  
Attn: Lone Pine Landfill Site Attorney

Chief, New Jersey Compliance Branch,  
Emergency and Remedial Response  
Division  
U.S. Environmental Protection  
Agency  
26 Federal Plaza  
New York, NY 10278  
Attn: Lone Pine Landfill Site Project Coordinator

Chief, New Jersey Remedial Action Branch  
Emergency and Remedial Response  
Division  
U.S. Environmental Protection  
Agency  
26 Federal Plaza  
New York, NY 10278  
Attn: Lone Pine Landfill Site Project Coordinator

Chief, Environmental Enforcement Section  
Land & Natural Resources  
Division  
U.S. Department of Justice  
10th & Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Attn: Lone Pine Landfill Site Attorney  
Case Number 90-11-2-294

As to Settling Defendants:

A. Primary Settling Defendants:

Michael Brown, Esq.  
Schmeltzer, Aptaker & Sheppard  
2600 Virginia Avenue, N.W.  
Suite 1000  
Washington, DC 20007-1905

Secondary Settling Defendants:

Robert J. Towles, Esq.  
Owens-Illinois  
One Seagate 30LGC  
Toledo, OH 43666

via express mail:  
Owens-Illinois  
Building 30  
25875 U.S. Route 25  
Perrysburg, OH 43551

B. For purposes of the documents relating to the service of the complaint and the lodging and entry of this Consent Decree:

Primary Settling Defendants:

Michael Brown, Esq.  
Schmeltzer, Aptaker & Sheppard  
2600 Virginia Avenue, N.W.  
Suite 1000  
Washington, DC 20007-1905

Secondary Settling Defendants:

Robert J. Towles, Esq.  
Owens-Illinois  
One Seagate 30LGC  
Toledo, OH 43666

via express mail:  
Owens-Illinois  
Building 30  
25875 U.S. Route 25  
Perrysburg, OH 43551

**Direct User Buyout Settling Defendants:**

Mark Rachlin, Esq.  
Sidley & Austin  
875 Third Avenue  
11th Floor  
New York, NY 10022

**SCP Buyout Settling Defendants:**

Michael D. Scott, Esq.  
Lowenstein, Sandler, Kohl et al  
65 Livingston Avenue  
Roseland, NJ 07068-1791

**XXVIII.****CONSISTENCY WITH  
NATIONAL CONTINGENCY PLAN**

The United States and the Settling Defendants agree that the Work, as set forth in this Consent Decree and the attachments hereto, if properly performed, is consistent with the provisions of the National Contingency Plan established pursuant to 42 U.S.C. §9605.

**XXIX.****RESPONSE AUTHORITY**

Notwithstanding any other provision of this Consent Decree, the United States reserves all rights to take any and all response actions authorized by law.

## XXX.

MODIFICATION

No modification shall be made to this Consent Decree without written notification to and written approval of all Parties to this Consent Decree. The notification required by this Section shall set forth the nature of and reasons for the requested modification. No oral modification of this Consent Decree shall be effective. Nothing in this Section shall be deemed to alter the Court's power to supervise or modify this Consent Decree.

## XXXI.

PUBLIC PARTICIPATION

- A. The United States shall publish a notice of this Consent Decree's availability for review and comment as a proposed settlement upon its lodging with the United States District Court.
- B. The United States shall provide persons who are not parties to the proposed settlement with the opportunity to file written comments during a thirty (30) day period following such notice. The United States will file with the Court a copy of any comments received and the responses of the United States to such comments.
- C. After the closing of the public comment period, the United States will review such comments and determine whether the comments disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate, and that the consent should therefore be withdrawn. Should the

consent be withdrawn, the United States shall inform the other parties of the basis for the withdrawal and any modifications necessary for approval of the Consent Decree.

D. In event that the United States withdraws its consent or the Court determines not to enter this Consent Decree, the funds in the Escrow Account shall be returned to the Settling Defendants.

#### XXXII.

##### COMMUNITY RELATIONS

Primary Settling Defendants, and as applicable, Secondary Settling Defendants, shall cooperate with U.S. EPA in providing information regarding the Work to the public. As requested by U.S. EPA, Primary Settling Defendants, and as applicable, Secondary Settling Defendants shall participate in the preparation of such information for dissemination to the public and in public meetings which may be held or sponsored by U.S. EPA to explain activities at or concerning the Site.

214

#### XXXIII.

##### EFFECTIVE AND TERMINATION DATES

A. The effective date of this Consent Decree shall be the date upon which this Consent Decree is entered by the Court.

B. Upon certification by U.S. EPA of completion of the construction components of the Remedial Action, in accordance with Section XV of this Consent Decree, and a showing that the other terms of this Consent Decree, including payment of all

costs and stipulated penalties due hereunder, have been complied with, this Consent Decree may be terminated by motion of any Party. The Court shall retain jurisdiction to enforce, if necessary, the requirements of the Operation & Maintenance Manual, or other plans requiring long term monitoring, submitted, and approved by U.S. EPA, pursuant to this Consent Decree, and any payments by Settling Defendants of costs and/or penalties. Termination of this Consent Decree shall not affect the Covenants Not to Sue (Sections XXIV and XXV), nor the provisions relating to reopening of this matter, nor any continuing obligation of Settling Defendants under this Consent Decree.

#### XXXIV.

##### ADMISSIBILITY OF DATA

In the event that the Court is called upon to resolve a dispute concerning implementation of this Consent Decree, the Parties waive any evidentiary objection to the admissibility into evidence of validated data (which is acceptable pursuant to the QA/QC Plan) gathered, generated, or evaluated pursuant to this Consent Decree.

#### XXXV.

##### WAIVER OF ANY CLAIM-SPLITTING DEFENSE

The Parties recognize and acknowledge that the settlement embodied in this Consent Decree is only a partial resolution of issues related to the remediation of conditions at the Lone Pine Landfill Superfund Site. Settling Defendants hereby waive the



defenses of res indicata, the entire controversy doctrine, and claim-splitting by the United States with respect to the amending of the Complaint in this action or the filing of sequential lawsuits by the United States for claims involving the Lone Pine Landfill Superfund Site in subsequent litigation regarding Settling Defendants' liability for remedial action to address that "off-site" area which is the subject of a separate remedial investigation and feasibility study, including but not limited to the groundwaters adjacent to the Lone Pine Landfill, and the Manasquan River, and/or payment of costs to finance remedial action to address that "off-site" area which is the subject of a separate remedial investigation and feasibility study, including but not limited to the groundwaters adjacent to the Lone Pine Landfill, and the Manasquan River.

#### XXXVI.

#### RETENTION OF JURISDICTION

The Court shall retain jurisdiction for the purpose of enabling any of the Parties to apply to this Court at any time for such further order, direction and relief as may be necessary or appropriate for the interpretation or modification of this Consent Decree, or to effectuate or enforce compliance with its terms or to resolve disputes in accordance with Section XXI.

By the Signature below each Settling Defendant's name,  
Consent to this Decree is hereby given; Consent by the United  
States is subject to 28 C.F.R. 50.7:

UNITED STATES OF AMERICA

By: *Myles E. Flint*

MYLES E. FLINT  
Acting Assistant Attorney  
General  
Land & Natural Resources  
Division  
U.S. Department of Justice  
Washington, D.C. 20530

Date: 8-23-89

By: *William J. Muszyński*

WILLIAM J. MUSZYŃSKI, P.E.  
Acting Regional Administrator  
Region 2  
U.S. EPA

Date: 7-16-89

By: *William C. Tucker*

WILLIAM C. TUCKER  
Assistant Regional Counsel  
Office of Regional Counsel  
Region 2  
U. S. EPA

Date: 7-14-89

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

ACTON CORPORATION, on behalf of  
VIKOA;  
AIR PRODUCTS AND CHEMICALS, INC.;  
ALCOA;  
ALLIED-SIGNAL, INC. as successor  
to ALLIED CHEMICAL CORPORATION;  
AMERICAN CYANAMID COMPANY, on its  
own behalf and on behalf of  
LEDERLE LABORATORIES, a division of  
AMERICAN CYANAMID CO., and SHULTON,  
INC., a subsidiary of AMERICAN  
CYANAMID CO.;  
AMERICAN FLANGE & MANUFACTURING CO.,  
INC.;  
AMERICAN INKS AND COATINGS  
CORPORATION;  
AMERICAN NATIONAL CAN COMPANY, on  
behalf of AMERICAN CAN COMPANY;  
AMERICAN STANDARD INC.,  
BASF CORPORATION, on behalf of the  
entity formerly known as BASF  
WYANDOTTE CORPORATION;  
BEL-RAY COMPANY, INC.;  
BENJAMIN MOORE & CO.;  
BER MAR MANUFACTURING;  
BORDEN, INC., on behalf of BORDEN  
CHEMICAL and FABRIC LEATHER CO.;  
BOWEN ENGINEERING, INC., on behalf of  
STORK BOWEN ENGINEERING, INC.;  
BROCK FARMS, INC.;  
BROWNING-FERRIS INDUSTRIES OF SOUTH  
JERSEY, INC., on its own behalf and  
as successor to CHESTER SEEMS &  
SONS, INC., and PRINCETON DISPOSAL  
SERVICE; BROWNING-FERRIS INDUSTRIES  
OF ELIZABETH, NJ, INC.; NEWCO WASTE  
SYSTEMS OF NJ, INC.; and CECOS  
INTERNATIONAL, INC.;  
CAPITOL RECORDS, INC., on behalf of  
CAPITOL MAGNETICS PRODUCTS;  
CARTER WALLACE, INC.;  
CELLU-CRAFT, INC.;  
CERRO COMMUNICATION PRODUCTS, INC.,  
on its own behalf and on behalf of  
CERRO WIRE & CABLE CO., INC.;  
CHARMS COMPANY;

CIVIL ACTION NO.

COMPLAINT

CHEMCOAT, INCORPORATED;  
CHEMICAL DYNAMICS CORP.;  
- CHEMICAL WASTE MANAGEMENT, on behalf  
of RECYCLING INDUSTRIES, INC.;  
CIBA-GEIGY CORPORATION, on its  
own behalf and on behalf of TOMS  
RIVER CHEMICAL CORP.;  
THE COCA-COLA COMPANY;  
COLGATE-PALMOLIVE COMPANY, on behalf  
of ELL-BEE CHEMICAL COMPANY;  
COLONIAL FOODS, INC.;  
COMPOUNDERS, INC.;  
CONESTOGA FUELS, INC.;  
CONGOLEUM CORPORATION, on behalf of  
CONGOLEUM;  
CUSTOM CHEMICALS CORPORATION, on  
behalf of CUSTOM CHEMICALS CO.,  
INC.;  
DECORATIVE INDUSTRIES, INC.;  
DURACELL, INC., on behalf of MALLORY  
BATTERY COMPANY;  
ECKER CONTRACTING & ROOFING CO., INC.;  
ENGELHARD CORPORATION;  
ENGLISHTOWN AUCTION SALES, INC.;  
FELLOWES MANUFACTURING COMPANY, on  
behalf of BANKERS BOX COMPANY;  
FIRST FIDELITY BANK, N.A., NEW JERSEY,  
as successor to MONMOUTH COUNTY  
NATIONAL BANK AND COLONIAL FIRST  
NATIONAL BANK;  
FREEHOLD RACING ASSOCIATION, on behalf  
of FREEHOLD RACEWAY;  
GENERAL FOODS CORPORATION, on its own  
behalf and on behalf of MAXWELL  
HOUSE DIVISION;  
GENERAL MOTORS CORPORATION;  
GEORGIA-PACIFIC CORPORATION, on behalf  
of XCEL;  
THE GILLETTE COMPANY;  
GTE PRODUCTS CORPORATION, on behalf of  
GTE SYLVANIA;  
HECHT BROTHERS, INC.;  
HEXCEL CORPORATION, on behalf of  
HEXCEL FINE ORGANICS;  
ICI AMERICAS INC., on behalf of  
CONVERTERS INK COMPANY;  
INLAND STEEL COMPANY, on behalf of  
INLAND STEEL CONTAINER;  
INTERNATIONAL FLAVORS AND FRAGRANCES,  
INC.;  
INTRA CITY WASTE MATERIALS CO., INC.;  
J. JOSEPHSON, INC.;  
J. LANDAU & CO., INC.;  
J. VINCH & SONS, INC.;

J.M. HUBER CORPORATION PRINTING INK  
DIVISION;  
J.T. BAKER, INC., on behalf of J.T.  
BAKER CHEMICAL COMPANY;  
JAMESWAY CORPORATION, on behalf of  
JAMESWAY;  
JOHN L. ARMITAGE & COMPANY;  
JOHNSON & JOHNSON, on behalf of  
J & J WAREHOUSE, PERMACEL, AND  
FRANKLIN DIST.;  
JONES CHEMICALS, INC., on behalf of  
JONES CHEMICAL CO.;  
K CHEMICAL CORPORATION;  
KALAMA CHEMICAL, INC., on behalf of  
MONROE CHEMICAL, INC.;  
KASCO CONSTRUCTION CO., INC.;  
KIRKER CHEMICAL COMPANY;  
L.E. CARPENTER & COMPANY/DAY  
INTERNATIONAL CORPORATION, on behalf  
of L.E. CARPENTER & COMPANY;  
M & T CHEMICALS, INC.;  
MANOR CARE, INC., on behalf of  
PORTFOLIO ONE, INC., successor to  
ALMO ANTI-POLLUTION CORP.;  
WILLIAM J. MEHR;  
MERCK & CO, INC.;  
MID-AMERICA ENGINEERS, INC.;  
MILLHURST MILLS, INC.;  
MILLIPORE CORPORATION, on behalf of  
WORTHINGTON BIOCHEMICAL;  
MINNESOTA MINING & MANUFACTURING  
COMPANY (3M);  
MOBAY CORPORATION, on behalf of  
HARMON COLORS CORPORATION;  
MONSANTO COMPANY;  
MORTON THIOKOL, INC., on behalf of  
BEE COATED FILM;  
NATIONAL WASTE DISPOSAL, INC.;  
NEPERA, INC., on behalf of NEPERA  
CHEMICAL CO.;  
NESTLE FOODS CORPORATION;  
NEW ENGLAND LAMINATES CO., INC.;  
NEW JERSEY NATIONAL GUARD (properly  
known as the NJ DEPARTMENT OF  
MILITARY AND VETERANS AFFAIRS);  
NOVICK CHEMICAL COMPANY, INC.;  
O-I BROCKWAY GLASS, on behalf of  
BROCKWAY, INC.;  
OCCIDENTAL CHEMICAL CORPORATION, as  
successor to DIAMOND SHAMROCK  
CHEMICALS COMPANY;  
OWENS-ILLINOIS GENERAL, INC., on  
behalf of OWENS-ILLINOIS, INC.;

OXY, USA, INC., on behalf of CITIES  
SERVICE OIL COMPANY;  
PAQUET ONEIDA, INC., on behalf of  
ONEIDA PACKAGING PRODUCTS;  
PENNSYLVANIA NATIONAL INSURANCE  
COMPANIES, on behalf of LIGHTMAN  
DRUM COMPANY, INC.;  
PENNWALT CORPORATION, on behalf of  
PENWALT CORPORATION and PENNWALT  
S.S. WHITE;  
PUBLIC SERVICE ELECTRIC AND GAS  
COMPANY;  
RELIANCE UNIVERSAL, INC.;  
REVLON, INC.;  
REYNOLDS METALS COMPANY;  
RHEEM MANUFACTURING COMPANY;  
RIDGE PRINTING CO., INC.;  
SEQUA CORPORATION, on behalf of  
ARROW GROUP IND. and CHROMALLOY  
CORPORATION;  
THE SHERWIN-WILLIAMS COMPANY;  
SILVER ENTERPRISES, INC.;  
SIMON WRECKING CO., INC.;  
SMITHKLINE BECKMAN CORPORATION, on  
behalf of SMITHKLINE BECKMAN;  
THE SOUTHLAND CORPORATION d/b/a  
SOUTHLAND CHEMICAL, on behalf of  
SOUTHLAND CHEMICAL;  
SQUIBB CORPORATION, on behalf of  
E.R. SQUIBB & SONS, INC.;  
STAR EXPANSION COMPANY;  
SYNTEX BEAUTY CARE, INC.;  
TECHNICAL COATINGS CO.;  
TENNECO POLYMERS, INC., on behalf of  
TENNECO CHEMICALS, INC.;  
TEXTRON, INC., on behalf of TEXTRON  
SPENCER KELLOGG;  
TRANSCO PRODUCTS CORPORATION;  
TUNGSTEN PRODUCTS CORPORATION;  
U.S. HOME CORPORATION;  
UNIROYAL CHEMICAL COMPANY, INC.,  
on behalf of UNIROYAL CHEMICAL;  
UNITED STATES PIPE AND FOUNDRY  
COMPANY;  
VAN DORN COMPANY, on behalf of  
MILTON CAN COMPANY;  
WASTE DISPOSAL, INC.;  
WESTINGHOUSE ELECTRIC CORPORATION, on  
behalf of WESTINGHOUSE ELECTRIC;

Defendants.

COMPLAINT

The United States of America, by and through the undersigned attorneys, by authority of the Attorney General of the United States and at the request of the United States Environmental Protection Agency ("U.S. EPA"), alleges that:

STATEMENT OF THE CASE

1. This is a civil action for injunctive relief and recovery of costs brought pursuant to Sections 106(a) and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9606(a) and 9607, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), and Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6973 ("RCRA"). The United States seeks injunctive relief to remedy an imminent and substantial endangerment to human health and the environment arising out of the release or threatened release of solid wastes and/or hazardous substances at a 63-acre site located in Freehold Township, Monmouth County, New Jersey known as the Lone Pine Landfill Site ("Site"). The United States also seeks to recover costs incurred for response, remedial and investigative activities undertaken at the Site, and costs to be incurred for response activities undertaken at the Site to implement U.S. EPA's September 28, 1984, Record of Decision.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 106(a) and 113(b) of CERCLA,

42 U.S.C. §§ 6973, 9606(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to Sections 106(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and (c) because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

#### DEFENDANTS

4. Each of the defendants are persons within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. Each of the defendants are persons or are successors in interest to or corporate parents of persons 1) who by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for disposal or treatment, of solid waste and hazardous substances owned by each such defendant at the Site, or 2) who accepted any solid waste or hazardous substances for transport to the Site.

#### THE SITE

6. The Site occupies approximately 63 acres of which 45 acres were used for landfill operations. The Site is located on Burke Road in Freehold Township, Monmouth County, New Jersey. From approximately 1959 to 1979, hazardous substances were accepted, transported to, and disposed of at the Site. During this time, industrial wastes were discharged to the surface soil at the Site.

7. On December 30, 1982 the Site was placed on the National Priorities List, 40 C.F.R. Part 300, Appendix B, which



is a national list of hazardous waste sites posing the greatest threat to health, welfare and the environment. The National Priorities List is established pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

8. Pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, in September of 1982, U.S. EPA began a Remedial Investigation and Feasibility Study ("RI/FS") at the Site, to investigate and determine the nature and extent of contamination at the Site. The RI/FS was completed in June of 1984.

9. The RI/FS demonstrated that surface soils at the Site are contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene and, toluene.

10. The RI/FS demonstrated that the Manasquan River adjacent to and just downstream of the Site is contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene, toluene, vinyl chloride, and arsenic.

11. The RI/FS demonstrated that groundwater at the Site is contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene, toluene, vinyl chloride, and arsenic.

12. Based on information collected during the RI/FS, U.S. EPA selected a remedy in a Record of Decision ("ROD") that was issued on September 28, 1984.

13. There were and are releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §9601(22), and the threat of continuing releases, of hazardous substances into the environment at the Site.

14. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

15. Hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been treated, stored or disposed of at the Site.

FIRST CLAIM FOR RELIEF

16. Paragraphs 1-16 are realleged and incorporated herein by reference.

17. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

18. The President's functions under Section 106(a) have been delegated to the Administrator of the Environmental Protection Agency.

19. There is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of actual or threatened releases of hazardous substances from the Site.

20. The defendants are jointly and severally liable for the injunctive relief to which the United States is entitled at the Site under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

SECOND CLAIM FOR RELIEF

21. Paragraphs 1-16 are realleged and incorporated herein by reference.

22. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances, and

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release which causes the incurrence of response costs, of a hazardous substance,

shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government or a State not inconsistent with the national contingency plan. . . .

23. The United States has incurred and will continue to incur response costs not inconsistent with the National Contingency Plan, including the costs for removal and remedial actions as defined in Sections 101(23), 101(24) and 101(25) of CERCLA, and costs authorized by Section 104 of CERCLA, to respond to the release or threatened release of hazardous substances at the Site.

24. Each defendant is jointly and severally liable to the United States for all response costs, including the costs of removal and remedial actions, incurred in the past or to be incurred in the future at the Site.

THIRD CLAIM FOR RELIEF

26. Paragraphs 1-16 are realleged and incorporated herein by reference.

27. Section 7003 of RCRA, 42 U.S.C. § 6973, provides that, upon receipt of evidence that the handling, storage, treatment, transportation or disposal of any solid waste or hazardous waste may present an imminent and substantial endangerment to health or the environment, U.S. EPA may bring suit against any person who has contributed to such handling, storage, treatment, transportation or disposal to order such person to take such action as may be necessary.

28. Each defendant contributed to the handling, storage, treatment, transportation or disposal of solid waste or hazardous waste at the Site.

29. Such disposal may present an imminent and substantial endangerment to health or the environment.

30. Defendants are jointly and severally liable for injunctive relief under Section 7003 of RCRA, 42 U.S.C. § 6793.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, prays that the Court:

1. Order the defendants, jointly and severally, to take all actions necessary to implement the ROD to remedy the conditions at the Site that may present an imminent and substantial endangerment to the public health or welfare or the environment;


2. Award the United States a judgment against the defendants, jointly and severally, for all response costs incurred by the United States in connection with the Site;

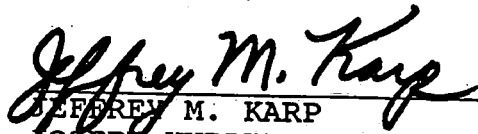
3. Award the United States a declaratory judgment that the defendants are jointly and severally liable for future response costs incurred by the United States in connection with implementing the ROD at the Site;

4. Award the United States its costs and fees in this action;

5. Grant such other and further relief as is appropriate.

Respectfully submitted,

  
\_\_\_\_\_  
MYLES E. FLINT  
Acting Assistant Attorney General  
Land and Natural Resources Division  
United States Department of Justice

  
\_\_\_\_\_  
JEFFREY M. KARP  
JOSEPH HURLEY  
Attorneys  
Environmental Enforcement Section  
Land and Natural Resources Division  
United States Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
(202) 633-2807

SAMUEL ALITO  
United States Attorney  
District of New Jersey

---

VINCENT GENTILE  
Assistant United States Attorney  
Chief, Civil Division  
502 Federal Building  
970 Broad Street, 5th Floor  
Newark, New Jersey 07102  
(201) 621-2700

OF COUNSEL

WILLIAM C. TUCKER  
United States Environmental  
Protection Agency  
26 Federal Plaza  
New York, New York 10278

CONSENT-DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 1  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

DECREE NAME: ACTON CORP ET AL  
CONSENT-ID: 02-90-C010  
PRIMARY LAW: CERCLA /106A  
OTHER LAWS: CERCLA /107A

DATE DECREE FILED: 03/05/90  
DECREE STATUS: A  
OVERALL COMPLIANCE: C

REGIONAL ATTY: TUCKER, W.  
REGIONAL CONTACT: GRASSI, R.  
ENF CASE NO: 02-89-0332  
COURT DOCKET NUMBER: 89-3652

HQ DIV: CER  
REGION: 02  
DOCUMENT TYPE: C

DECREE COMMENTS:

FACILITY NAME

-----  
LONE PINE LF

CITY

-----  
FREEHOLD

STATE

-----  
NJ

EPA ID NO

-----  
NJD980505424

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

200 PARTIES TO DECREE

0010

START PAGE: 0001 END PAGE: 0001

USA, PLAINTIFF, V. ACTON CORP ET AL AS DEFENDANTS

COMPLAINT FILED: 08/25/89  
DECREE FILED: 03/05/90

107 PERFORMANCE BOND

0020

START PAGE: 0017 END PAGE: 0017

PRIMARY SETTLING DEFENDANTS SHALL DEMONSTRATE THEIR ABILITY TO COMPLETE THE WORK AND TO PAY ALL CLAIMS THAT ARISE IN CONNECTION WITH PERFORMANCE OF THE WORK BY OBTAINING, AND PRESENTING TO U.S. EPA FOR APPROVAL WITHIN TEN (10) DAYS OF THE ENTRY OF THIS CONSENT DECREE, ONE OF THE FOLLOWING:  
(1) AN AGREEMENT CREATING A TRUST FUND (2) A PERFORMANCE BOND, OR (3) IRRVOCABLE LETTER OF CREDIT.

01 DEF'S ASSURANCE OF ABILITY TO COMPLETE THE WORK DUE

03/15/90

03/07/90 IN COMPLIA

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 2  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION PARAGRAPH TEXT MILESTONE EVENT(S)	PAR NO	DATE DUE	F R Q	DATE COMPLETED	COMPLIANCE STATUS
ACTON CORP ET AL (Continued)					
110 DESIGNATION OF COORDINATOR	0030				
START PAGE: 0018 END PAGE: 0019					
WITHIN TEN (10) DAYS OF THE DATE ON WHICH THIS CONSENT DECREE IS LODGED WITH THE COURT, PRIMARY SETTLING DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTLING DEFENDANTS, SHALL DESIGNATE A PROJECT COORDINATOR.					
01 PRIMARY SETTLING DEF'S SHALL DESIGNATE A PROJECT COORDINATOR		09/05/89			UNDETERMIN
224 NOTIFICATION REQUIREMENT	0040				
START PAGE: 0019 END PAGE: 0019					
WITHIN 10 DAYS OF THE DATE ON WHICH THIS CONSENT DECREE IS LODGED WITH THE COURT, PRIMARY SETTLING DEFENDANTS AND SECONDARY SETTLING DEFENDANTS SHALL NOTIFY U.S. EPA IN WRITING OF THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THEIR PROJECT COORDINATOR DESIGNATED PURSUANT TO THIS SECTION.					
01 DEF'S SHALL NOTIFY EPA OF NAME & ADDRESS OF PROJECT COORDINATOR		09/05/89			UNDETERMIN
221 CREATION OF OVERSEEING BOARDS, PANELS OR COMMITTEES	0050				
START PAGE: 0021 END PAGE: 0021					
WORK TO BE PERFORMED: ALL WORK TO BE PERFORMED BY THE PRIMARY DEF'S, AND AS APPLICABLE, SECONDARY SETTLING DEF'S, PURSUANT TO THIS DECREE SHALL BE UNDER THE DIRECTION AND SUPERVISION OF A QUALIFIED ENGINEER OR TECHNICAL EXPERT, NOT ENGAGED IN THE PRACTICE OF LAW. DEF'S SHALL SELECT, QUALIFIED ENGINEER OR TECHNICAL EXPERT, AND SHALL NOTIFY U.S. EPA, IN WRITING, OF THE NAME, TITLE AND QUALIFICATIONS OF ANY PERSON OR FIRM PROPOSED TO BE USED IN CARRYING OUT SUCH ACTIVITIES, WITHIN 10 DAYS OF THE EFFECTIVE DATE OF THIS CONSENT DECREE. U.S. EPA SHALL HAVE THE RIGHT TO DISAPPROVE OF ANY SUCH PERSON OR FIRM BASED ON THEIR PROFESSIONAL QUALIFICATIONS.					



CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 3  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL, PARAGRAPH 0050 (Continued)

01 DEF'S TO NOTIFY EPA OF NAME/TITLE OF SELECTED REP TO SUPERVISE WORK

03/15/90

03/15/90

IN COMPLIA

321 REMEDIAL MEASURES

0060

START PAGE: 0021 END PAGE: 0025

DESCRIPTION OF THE REMEDIAL ACTION: PAGES 21 - 22

CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION, SHALL INCLUDE: PAGES 22 - 23

PRIMARY SETTLING DEF'S, AND AS APPLICABLE, SECONDARY SETTLING DEF'S SHALL AWARD AT LEAST ONE CONTRACT TO CONDUCT THE CONSTRUCTION OF ONE OF THE COMPONENTS OF THE REMEDIAL ACTION, BY EITHER: 1) SEPT 30, 1989; OR, 2) W/I 5 DAYS OF THE EFFECTIVE DATE OF THIS CONSENT DECREE, WHICHEVER IS LATER.

PRIMARY DEF'S, SHALL SOLICIT BIDS FOR WORK INVOLVING THE OTHER CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION, LISTED, AND WITHIN ONE HUNDRED AND TWENTY (120) DAYS OF THE EFFECTIVE DATE OF THIS DECREE, SHALL AWARD THE CONTRACT(S) TO CONDUCT THE OTHER CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION AND SUBMIT THE NAME OF THE SELECTED CONTRACTOR(S) TO U.S. EPA.

REMEDIAL ACTION WORK PLAN: PAGE 23 - 25 THE PRIMARY SETTLING DEF'S, SHALL SUBMIT TO U.S. EPA A DRAFT REMEDIAL ACTION WORK PLAN ('RA WORK PLAN') TO ADDRESS THE CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS CONSENT DECREE.

U.S. EPA WILL EITHER APPROVE THE DRAFT RA WORK PLAN THUS MAKING IT A FINAL RA WORK PLAN, OR REQUIRE MODIFICATIONS, AND WILL NOTIFY THE SETTLING DEF'S IN WRITING OF SUCH APPROVAL OR REQUIRED MODIFICATIONS.

PAGE 22 - 23 REMEDIAL ACTION WORK PLAN

1. INSTALLATION OF A CAP OVER THE LANDFILL, AND A METHANE GAS VENTING SYSTEM
2. INSTALLATION OF A SLURRY WALL AROUND THE PERIMETER OF THE LANDFILL
3. INSTALLATION OF A GROUNDWATER COLLECTION SYSTEM WITHIN THE LANDFILL
4. CONSTRUCTION OF A TREATMENT PLANT TO TREAT COLLECTED GROUNDWATER
5. CONSTRUCTION OF A FENCE AROUND THE SITE TO RESTRICT UNAUTHORIZED ACCESS
6. IMPLEMENTATION OF A SURFICIAL CLEANUP OF DRUMS AND DEBRIS AT THE BORROW PIT ADJACENT TO THE SITE

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 4  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL, PARAGRAPH 0060 (Continued)

7. OPERATION AND MAINTENANCE  
8. LONG-TERM MONITORING OF WATER AND AIR.  
CONSTRUCTION COMPONENTS:

1. INSTALLATION OF A CAP OVER THE LANDFILL. AND A METHANE GAS VENTING SYSTEM
2. INSTALLATION OF A SLURRY WALL AROUND THE PERIMETER OF LANDFILL
3. INSTALLATION OF A GROUNDWATER COLLECTION SYSTEM WITHIN THE LANDFILL
4. CONSTRUCTION OF A TREATMENT PLANT TO TREAT COLLECTED GROUNDWATER
5. CONSTRUCTION OF A FENCE AROUND THE SITE TO RESTRICT UNAUTHORIZED ACCESS
6. IMPLEMENTATION OF A SURFICIAL CLEANUP OF DRUMS AND DEBRIS AT THE BORROW PIT ADJACENT TO THE SITE.

01	DEF'S SHALL AWARD CONTRACT BY W/I 5 DAYS ENTRY OF DECREE	03/10/90	10/16/89	IN COMPLIA
** 4Q90: REMEDIAL CONTRACT AWARDED 7/3/90. TAKEN FROM ENGINEER REPORT 4Q90.				
02	DEF'S SHALL SOLICIT BIDS & AWARD CONTRACT(S) TO CONDUCT REMEDIAL ACTION BY	07/05/90	07/03/90	IN COMPLIA
03	DEF'S SHALL SUBMIT DRAFT "RA WORK PLAN" CONSTRUCTION COMPONENTS W/I 60 DAYS	05/05/90	05/05/90	IN COMPLIA

321 REMEDIAL MEASURES

0070

START PAGE: 0026 END PAGE: 0027

WITHIN 40 DAYS AFTER COMPLETION OF THE CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION, INCLUDING THE RECEIPT BY THE SETTLING DEF'S OF ALL NECESSARY DATA AND DOCUMENTATION, DEF'S SHALL SUBMIT A DRAFT REMEDIAL ACTION REPORT TO U.S. EPA CERTIFYING THAT ALL CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION HAVE BEEN COMPLETED IN COMPLIANCE WITH THE TERMS SET FORTH IN THE REMEDIAL DESIGN AND THIS CONSENT DECREE.

01 DRAFT RA RPT + CERTIFY COMPLETION OF CONSTRUCTION W/I 40 DAYS OF COMPLETION

\*\* PLEASE UPDATE WITH DATE THIS REPORT WOULD BE DUE BASED ON APPROVAL OF THE FINAL RA WORK PLAN SCHEDULE FOR COMPLETION OF CONSTRUCTION COMPONENTS WHEN IT IS INCORPORATED IN THIS DECREE.

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 5  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL (Continued)

301 OPERATION & MAINTENANCE

0080

START PAGE: 0027 END PAGE: 0028

THE SETTling DEF'S, SHALL PREPARE A DRAFT OPERATION AND MAINTENANCE MANUAL ("O & M MANUAL"), WHICH CONFORMS TO THE U.S. EPA GUIDELINES AND SUBMIT THE DRAFT O & M TO U.S. EPA WITHIN 30 DAYS FROM U.S. EPA APPROVAL OF THE RA WORK PLAN COVERING THE CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION.

THE FINAL O & M AS APPROVED BY U.S. EPA SHALL BE INCORPORATED BY REFERENCE INTO THIS CONSENT DECREE.

01 DEF'S REQ PREPARE DRAFT O & M & SUBMIT W/1 30 DAYS EPA APPROVAL RA WORK PLAN

\*\* WORK PLAN NOT APPROVED YET 4090.

120 ACCESS TO SITE/RECORDS

0090

START PAGE: 0029 END PAGE: 0032

TO THE EXTENT THAT THE SITE OR OTHER AREAS WHERE WORK IS TO BE PERFORMED IS PRESENTLY OWNED BY PARTIES OTHER THAN THOSE BOUND BY THIS CONSENT DECREE, DEF'S SHALL OBTAIN ACCESS AGREEMENTS FOR THE PRESENT OWNERS WITHIN 30 DAYS OF ENTRY OF THIS CONSENT DECREE FOR PURPOSES OF IMPLEMENTING THE REQUIREMENTS OF THIS DECREE.

01 DEF'S SHALL OBTAIN ACCESS AGREEMENTS REQUIRED

04/05/90

04/05/90

IN COMPLIA

101 REPORTING (MONTHLY AND UPON CERTIFICATION QUARTERLY)

0100

START PAGE: 0033 END PAGE: 0035

PRIMARY SETTling DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTling DEF'S, SHALL SUBMIT TO U.S. EPA MONTHLY WRITTEN PROGRESS REPORTS BY THE TENTH DAY OF EVERY MONTH FOLLOWING THE DATE OF ENTRY OF THIS CONSENT DECREE, PROVIDED THAT, AFTER U.S. EPA CERTIFICATION OF COMPLETION PURSUANT TO SECTION XV OF THIS DECREE, THE PROGRESS REPORTS SHALL BE SUBMITTED QUARTERLY RATHER THAN MONTHLY.

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 6  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION PARAGRAPH TEXT MILESTONE EVENT(S)	PAR NO	DATE DUE	F R Q	DATE COMPLETED	COMPLIANCE STATUS
ACTON CORP ET AL, PARAGRAPH 0100 (Continued)					
* U.S. EPA WILL NOTIFY DEFENDANTS IN WRITING IF U.S.EPA DETERMINES THAT PROGRESS REPORT IS INCOMPLETE OR DEFICIENT.					
01 DEF'S MONTHLY COMPLIANCE RPT DUE /AFTER CERTIFICAT'N DUE QUARTERLY		04/10/90	M	04/05/90	IN COMPLIA
02 DEF'S MONTHLY COMPLIANCE RPT DUE/AFTER CERTIFICAT'N DUE QUARTERLY		05/10/90	M	05/05/90	IN COMPLIA
03 DEF'S MONTHLY COMPLIANCE RPT DUE/AFTER CERTIFICAT'N OF THE RA DUE QUARTERLY		06/10/90	M	06/07/90	IN COMPLIA
04 DEF'S MONTHLY COMPLIANCE RPT DUE /AFTER CERTIFICAT'N OF RA DUE QUARTERLY		07/10/90	M	07/09/90	IN COMPLIA
05 DEF'S QUARTERLY COMPLIANCE REPORT DUE		02/10/91	Q	02/10/91	IN COMPLIA
06 DEF'S MONTHLY COMPLAINEE REPORT DUE		05/10/91	M	05/10/91	IN COMPLIA
07 DEF'S QUARTERLY COMPLIANCE REPORT DUE		08/10/91	Q	08/06/91	IN COMPLIA
** NOTE: THIS EVENT NEEDS UPDATING PER ENGINEER ASSIGNED 3491. THE REPORTS ARE TO BE ON A MONTHLY BASIS AND NOT QUARTERLY AS PREVIOUSLY INFORMED.					
08 DEF'S MONTHLY COMPLAINEE REPORT DUE		11/10/91	M	11/10/91	IN COMPLIA
09 DEF'S MONTHLY COMPLIANCE REPORT DUE		02/10/92	M	02/10/92	IN COMPLIA
10 DEF'S MONTHLY COMPLIANCE REPORT		03/10/92	M	03/10/92	IN COMPLIA
11 DEF'S MONTHLY COMPLIANCE REPORT DUE		04/10/92	M	04/10/92	IN COMPLIA

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 7  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION PARAGRAPH TEXT MILESTONE EVENT(S)		PAR NO	DATE DUE	F R Q	DATE COMPLETED	COMPLIANCE STATUS
ACTON CORP ET AL, PARAGRAPH 0100 (Continued)						
12	DEF'S MONTHLY COMPLIANCE REPORT DUE		05/11/92	M	05/11/92	IN COMPLIA
13	DEF'S MONTHLY COMPLIANCE REPORT DUE		06/10/92	M	06/10/92	IN COMPLIA
14	DEF'S MONTHLY COMPLIANCE REPORT DUE		07/10/92	M	07/10/92	IN COMPLIA
15	DEF'S MONTHLY COMPLIANCE REPORT DUE		08/10/92	M	08/10/92	IN COMPLIA
16	DEF'S MONTHLY COMPLIANCE REPORT DUE		09/10/92	M	09/10/92	IN COMPLIA
17	DEF MONTHLY COMPLIANCE REPORT DUE		11/10/92	M	11/10/92	IN COMPLIA
** * ANALYST SHALL ENTER MORE MILESTONES						
18	DEF'S MONTHLY COMPLIANCE REPORT DUE		12/10/92	M	12/10/92	IN COMPLIA
19	DEF'S MONTHLY COMPLIANCE REPORT DUE		01/10/93	M	01/10/93	IN COMPLIA
** * ANALYST SHALL ADD MORE MILESTONES.						
20	DEF'S MONTHLY COMPLIANCE REPORT DUE		02/10/93	M		UNDETERMIN
21	DEF'S MONTHLY COMPLIANCE REPORT DUE		03/10/93	M		UNDETERMIN
22	DEF'S MONTHLY COMPLIANCE REPORT DUE		04/10/93	M		UNDETERMIN
23	DEF'S MONTHLY COMPLIANCE REPORT DUE		05/10/93	M		UNDETERMIN

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 8  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION PARAGRAPH TEXT MILESTONE EVENT(S)	PAR NO	DATE DUE	F R Q	DATE COMPLETED	COMPLIANCE STATUS
ACTON CORP ET AL, PARAGRAPH 0100 (Continued)					
24 DEF'S MONTHLY COMPLIANCE REPORT DUE		06/10/93	M	06/10/93	IN COMPLIA
25 DEF'S MONTHLY COMPLIANCE REPORT DUE		07/10/93	M	07/10/93	IN COMPLIA
26 DEF'S MONTHLY COMPLIANCE REPORT DUE		08/10/93	M	08/10/93	IN COMPLIA
27 DEF' MONTHLY COMPLIANCE REPORT DUE		09/10/93			UNDETERMIN
28 DEF'S MONTHLY COMPLIANCE REPORT DUE		10/10/93			
29 DEF'S MONTHLY COMPLIANCE REPORT DUE		11/10/93			
30 DEF'S MONTHLY COMPLIANCE REPORT DUE		12/10/93			
31 DEF'S MONTHLY COMPLIANCE REPORT DUE.		01/10/94			
32 DEF'S MONTHLY COMPLIANCE REPORT DUE.		02/10/94			
33 DEF'S MONTHLY COMPLIANCE REPORT DUE.		03/10/94			
34 DEF'S MONTHLY COMPLIANCE REPORT DUE.		04/10/94			
35 DEF'S MONTHLY COMPLIANCE REPORT DUE.		05/10/94			

\*\* \*\*\*\*\*ANALYST SHALL ADD MORE MILESTONES\*\*\*\*\*

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 9  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL (Continued)

115 HEALTH AND SAFETY

0110

START PAGE: 0042 END PAGE: 0043

U.S. EPA SHALL REVIEW THE REMEDIAL ACTION AT THE SITE AT LEAST EVERY FIVE (5) YEARS AFTER THE ENTRY OF THIS CONSENT DECREE TO ASSURE THAT HUMAN HEALTH AND THE ENVIRONMENT ARE BEING PROTECTED BY THE REMEDIAL ACTION BEING IMPLEMENTED, WITH RESPECT TO THE SOURCE OF CONTAMINATION ADDRESSED BY THE WORK REQUIRED UNDER THIS CONSENT DECREE.

\*

01 U.S. EPA REVIEW TO ASSURE PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT

03/05/95

204 LIABILITY INSURANCE

0120

START PAGE: 0045 END PAGE: 0046

PRIOR TO COMMENCING ANY ON-SITE WORK, PRIMARY SETTLING DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTLING DEF'S, OR THEIR CONTRACTORS & SUBCONTRACTORS TOGETHER SHALL SECURE, AND SHALL MAINTAIN FOR THE DURATION OF THIS CONSENT DECREE, AUTOMOBILE LIABILITY INSURANCE, INCLUDING BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY WITH A MINIMUM OF ONE MILLION DOLLARS FOR EACH PERSON AND EACH OCCURRENCE; COMPREHENSIVE GENERAL LIABILITY INSURANCE WHICH INCLUDES, BUT IS NOT NECESSARILY LIMITED TO, COVERAGE FOR CONTRACTUAL LIABILITY, PROPERTY DAMAGE AND BODILY INJURY WITH COVERAGE OF FIVE MILLION DOLLARS COMBINED SINGLE LIMIT. THE U.S. AND U.S. EPA SHALL BE NAMED AS ADDITIONAL INSUREDS.

01 INSURANCE AND INDEMNIFICATION FOR THE DURATION OF CONSENT DECREE

0

106 COST RECOVERY/COST OF CLEANUP/FUTURE COSTS

0130

START PAGE: 0047 END PAGE: 0048

DEF'S SHALL REIMBURSE THE U.S. FOR ALL COSTS IN EXCESS OF \$500,000 INCURRED IN CONNECTION WITH THE REVIEW OR DEVELOPMENT OF PLANS, REPORTS AND OTHER ITEMS REQUIRED BY THIS DECREE AND THE OVERSIGHT OR VERIFICATION OF WORK

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 10  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL, PARAGRAPH 0130 (Continued)

PURSUANT TO THIS DECREE, OR IN SECURING ACCESS TO THE SITE OR ANY OTHER  
PROPERTY TO WHICH ACCESS IS REQUIRED FOR THE PERFORMANCE OF THE WORK.  
\*

US EPA MAY SEND SETTLING DEFENDANTS A DEMAND FOR PAYMENT OF SUCH COSTS,  
TOGETHER WITH AN ACCOUNTING OF THE COSTS CLAIMED, ON AN ANNUAL BASIS, WITH  
EACH DEMAND TO BE MADE AS SOON AS PRACTICABLE AFTER THE ANNIVERSARY OF THE  
DATE OF CONSENT DECREE ENTRY. PAYMENT IS DUE WITHIN 30 DAYS OF EACH DEMAND.  
PURSUANT TO THIS DECREE, OR IN SECURING ACCESS TO THE SITE OR ANY OTHER  
PROPERTY TO WHICH ACCESS IS REQUIRED FOR THE PERFORMANCE OF THE WORK.  
\*

U.S. EPA MAY SEND SETTLING DEFENDANTS A DEMAND FOR PAYMENT OF SUCH COSTS,  
TOGETHER WITH AN ACCOUNTING OF THE COSTS CLAIMED, ON AN ANNUAL BASIS, WITH  
EACH DEMAND TO BE MADE AS SOON AS PRACTICABLE AFTER THE ANNIVERSARY OF THE  
DATE OF ENTRY OF THIS CONSENT DECREE.  
\*

PAYMENT SHALL BE MADE FROM THE SETTLING DEFENDANTS TRUST FUND WITHIN (30)  
DAYS OF SETTLING DEFENDANTS' RECEIPT OF THE DEMAND FOR PAYMENT.  
\*

PAYMENT TO THE U.S. EPA UNDER THIS SECTION SHALL BE MADE BY MAILING A  
CERTIFIED CHECK, MADE PAYABLE TO "EPA HAZARDOUS SUBSTANCE SUPERFUND", AND  
REFERENCING THE LONE PINE LANDFILL SUPERFUND SITE.  
\*

WITHIN THIRTY (30) DAYS OF THE ENTRY OF THIS CONSENT DECREE, ATSDR SHALL  
BE PAID \$1372.86 FROM THE TRUST FUND, PLUS THE ACCUMULATED INTEREST ON  
THAT AMOUNT CALCULATED FROM THAT DATE OF LODGING OF THIS CONSENT DECREE,  
IN ACCORDANCE WITH SECTION 107(A) OF CERCLA, 42 U.S.C. SECTION 9607.  
SUCH PAYMENT SHALL BE FOR COSTS INCURRED BY ATSDR PRIOR TO THE DATE OF  
LODGING OF THIS CONSENT DECREE IN PERFORMING HEALTH ASSESSMENTS FOR THE  
SITE IN ACCORDANCE WITH SECTION 104(I)(6)(A) OF CERCLA, 42 U.S.C. SECTION  
9604(I)(6)(A).

01 PAYMENT OF REIMBURSEMENT DEMANDS

04/05/91 A 04/05/91 IN COMPLIA

\*\* DATE DETERMINED FROM EPA DEMAND, WHICH CAN BE MADE ANNUALLY FROM DATE OF  
CONSENT DECREE.  
\*

AS OF 7/8/91 EPA HAS NOT MADE ANY ANNUAL ACCT'S  
\*

THIS DECREE NEEDS UPDATING



CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 11  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION PARAGRAPH TEXT MILESTONE EVENT(S)	PAR NO	DATE DUE	F R Q	DATE COMPLETED	COMPLIANCE STATUS
ACTON CORP ET AL, PARAGRAPH 0130 (Continued)					
02 PAYMENT OF REIMBURSEMENT DEMANDS		05/05/92		05/05/92	IN COMPLIA
** DATE DETERMINED FROM EPA DEMAND WHICH CAN BE MADE ANNUALLY FROM DATE OF CONSENT DECREE.					
* INFORMATION TO BE UPDATE BY ATTORNEY OR TECHNICAL CONTACT.					
03 WITHIN (30) DAYS, ATSDR SHALL BE PAID (1372.86) FROM TRUST FUND, PLUS INT.		04/05/90			UNDETERMIN

T02 RECORDKEEPING

0140

START PAGE: 0067 END PAGE: 0068

PRIMARY SETTLING DEFENDANTS AND AS APPLICABLE, SECONDARY SETTLING DEFENDANTS, SHALL MAKE AVAILABLE TO U.S. EPA AND SHALL RETAIN, DURING THE PENDENCY OF THIS CONSENT DECREE AND FOR THE PERIOD OF SIX (6) YEARS AFTER ITS TERMINATION, ALL RECORDS AND DOCUMENTS IN THEIR POSSESSION, CUSTODY, OR CONTROL WHICH RELATE TO THE PERFORMANCE OF THIS CONSENT DECREE, INCLUDING, BUT NOT LIMITED TO, DOCUMENTS REFLECTING THE RESULTS OF ANY SAMPLING, TESTS, OR OTHER DATA OR INFORMATION GENERATED OR ACQUIRED BY ANY OF THEM, OR ON THEIR BEHALF, WITH RESPECT TO THE SITE.

\* AFTER THE SIX (6) YEAR PERIOD OF DOCUMENT RETENTION, PRIMARY SETTLING DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTLING DEFENDANTS, SHALL NOTIFY U.S. DOJ AND U.S. EPA IN WRITING AT LEAST NINETY (90) DAYS PRIOR TO THE PROPOSED DESTRUCTION OF ANY SUCH DOCUMENTS, AND SHALL NOT DESTROY ANY SUCH DOCUMENTS WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE UNITED STATES. IF THE UNITED STATES OBJECTS OR DENIES PERMISSION FOR AN INTERIM OR FINAL DOCUMENT DESTRUCTION, THE PRIMARY SETTLING DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTLING DEFENDANTS, AND AS APPLICABLE, SECONDARY SETTLING DEFENDANT, WITH RESPECT TO SUCH DOCUMENTS SHALL CEASE.

CONSENT DECREE TRACKING SYSTEM  
DOCUMENT SUMMARY REPORT  
(PARAPHRASES ORIGINAL DOCUMENT)

PAGE: 12  
12/07/93

CONSENT ID: 02-90-C010

DATE ENTERED: 03/29/90  
DATE DECREE FILED: 03/05/90

DATE UPDATED: 12/07/93

PARAGRAPH CONTROL CODE AND DESCRIPTION  
PARAGRAPH TEXT  
MILESTONE EVENT(S)

PAR NO

DATE  
DUE

F  
R  
Q

DATE  
COMPLETED

COMPLIANCE  
STATUS

ACTON CORP ET AL (Continued)

214 TERMINATION OF DECREE

0150

START PAGE: 0073 END PAGE: 0074

UPON CERTIFICATION BY U.S. EPA OF COMPLETION OF THE CONSTRUCTION COMPONENTS OF THE REMEDIAL ACTION, AND A SHOWING THAT THE OTHER TERMS OF THIS CONSENT DECREE, INCLUDING PAYMENT OF ALL COSTS AND STIPULATED PENALTIES DUE HEREUNDER, HAVE BEEN COMPLIED WITH, THIS CONSENT DECREE MAY BE TERMINATED BY MOTION OF ANY PARTY.

THE COURT SHALL RETAIN JURISDICTION TO ENFORCE, IF NECESSARY, THE REQUIREMENTS OF THE OPERATION & MAINTENANCE MANUAL, OR OTHER PLANS REQUIRING LONG TERM MONITORING, SUBMITTED, AND APPROVED BY U.S. EPA, PURSUANT TO THIS CONSENT DECREE, AND ANY PAYMENTS BY SETTLING DEFENDANTS OF COSTS AND /OR PENALTIES. TERMINATION OF THIS CONSENT DECREE SHALL NOT AFFECT THE COVENANTS NOT TO SUE (SECTION XXIV AND XXV), NOR THE PROVISIONS RELATING TO REOPENING OF THIS MATTER, NOR ANY CONTINUING OBLIGATION OF SETTLING DEFENDANTS UNDER THIS CONSENT DECREE.

01 ESTIMATED TERMINATION OF DECREE

\*\* TERMINATION BASED UPON COMPLIANCE AND BYMOTION OF ANY PARTY.